

GRAMMATICAL ANALYSIS: ITS ROLE IN THE READING OF LEGAL TEXTS

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BY

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**Grammatical analysis: its role in the reading of legal texts**

**By**

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**Thesis**

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degree of Doctor of Philosophy in the Department of General Linguistics at the  
University of Zululand**

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## **DEDICATION**

**This thesis is dedicated to the students at the University of Zululand, past and present, and for whom the English language serves as a barrier in their act of writing, reading and interpretation.**

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## DECLARATION

I declare that

**Grammatical analysis: its role in the reading of legal texts**

is my own work and that all the sources that I have quoted have been duly acknowledged by means of complete references.

Signature:.....

## ACKNOWLEDGEMENT

In writing this thesis I have drawn upon my experience of teaching and learning at the University of Zululand and I am grateful for all the opportunities, over a number of years, for learning and reflection with students and colleagues. In particular, I wish to extend my gratitude to the Research Committee of the University of Zululand for the research funding that was granted for the purposes of this study.

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## ABSTRACT

In almost all the statutory sentences that obtain in the statutes of the University of Zululand and the University of Swaziland respectively, modification and subordination or rather embedding form part of the essential techniques used by the writers to enhance the communicative potential of the sentences. The objective of the study, therefore, was to establish that using adjectival and adverbial information in legal texts does have an effect on the act of reading and interpretation and the resultant meaning on the text. The construction of the sentences in the two statutes favours the study's hypotheses. The first hypothesis is that using adjectival and adverbial information in legal texts significantly enhances clarity and precision of the expression as mediated by the text. The second hypothesis is that reference both within the nominal group and the verbal group in legal texts is susceptible of further specification.

In chapter two, we argue, in Bex's (1996:95) terms, that texts orient themselves to readers in particular ways, and organize their information in ways appropriate to the medium selected and the context in which they occur. We also note that in the construction and interpretation of texts due attention is given to the elements in the language which are capable of encoding various functions and particular realizations of these functions determine the register of the text under consideration (cf. Bex, 1996:95). In our analysis of the statutes of the University of Zululand and the University of Swaziland respectively, we establish that *language varies according to the activity in which it plays a part* (Leech et al, 1982:10). We also establish that sentences with different structures have different communicative functions and that one important property of a sentence is its communicative potential (Akmajian et al, 1995:229). This communicative potential of sentences, with specific reference to the statutory sentences under discussion, is, as already indicated earlier on, enhanced by using modification both within the nominal group and the verbal group.

Thus, it is worth emphasizing that in enhancing the effectiveness and communicative potential of the statutory sentences in order to achieve clarity and precision of the expression, modifying elements carrying adjectival and adverbial information are put to use in constructing the sentences. In consequence thereof, modification which employs non-nuclear constituents is accorded a central role in determining the effectiveness of the sentences whilst the acceptability of the sentences in terms of its grammaticality is determined solely by the nuclear constituents. Thus the argument that the occurrence of a modifier is never essential for the internal structure of a noun phrase and that a modifier can be easily omitted without affecting the acceptability of the noun phrase (Aarts and

Aarts, 1988:63) is, in our view, not at issue. Our concern is not so much with the acceptability of both reference and predication within the structure of the sentence. Rather, we are concerned with whether the communicative potential or effectiveness of the sentences makes it possible for the communicative intent to be realized as intended. Our analysis of the sentences in the statutes in question, demonstrate that the necessary specification is contained in the modifier and that a modifier has the effect of explicitness and of specifying precisely that which is the point of information (Halliday and Hasan, 1997:96). Our view, therefore, is that although non-nuclear constituents (modifiers) in a sentence are optional, their role of specification cannot go unnoticed since they are tightly integrated into the structure of the clause (cf. Huddleston and Pullum, 2005). This view is corroborated by Akmajian et al's (1995:223) argument that the meaning of a syntactically complex expression is determined by the meaning of its constituents and their grammatical relations. Hence we argue that notwithstanding the fact that nuclear constituents are obligatory for the sentence to be accepted as grammatical, the grammaticality of the sentence as determined by the nuclear constituents does not necessarily translate into its effectiveness as a communicative device of information. It bears repeating, therefore, that in almost all the statutory sentences of the two universities, modification and subordination or rather embedding from part of the essential techniques use by the writers to enhance the communicative potential and effectiveness of the sentences.



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## **Chapter one**

### **Introduction**

A knowledge of grammar is a help in the interpretation of literary as well as nonliterary texts, since the interpretation of a passage sometimes depends crucially on grammatical analysis (Greenbaum and Nelson, 2<sup>nd</sup> ed.2002:6).

### **Aim of the study**

The aim of the study was to establish what role grammatical analysis has in the act of reading legal texts.

### **Objective of the study**

The objective of the study was to establish that using adjectival and adverbial information in legal texts does have an effect on the act of reading.

### **Hypothesis 1**

Using adjectival and adverbial information in legal texts significantly enhances clarity and precision of the expression as mediated by the text.

### **Hypothesis 2**

Reference both within the nominal group and the verbal group in legal texts is susceptible to further specification.

### **Motivation for the study**

In Freeborn's (1993:104) view the way we learn a second language after we have already learned our first will differ from the way we learned the first one, because knowledge of our first language is bound to affect our learning of the new language, in helpful and unhelpful ways. This linguistic situation is, among other things, accounted for by the fact that second languages share little knowledge of the structure of the target language, English. As a consequence, the overall 'mutual intelligibility' becomes significantly restricted (cf. Politzer, quoted in Cox, 1993:53).

Notably, understanding the structure of a construction necessarily involves identifying its constituents. Thus, Tudor's argument that students without having to become linguists need at least a basic idea of how language is structured and used, for example, certain grammatical or functional categories, the ability to recognize formulaic expressions and some notions of register and appropriacy is germane to the topic under investigation, namely, *Grammatical analysis: its role in the reading of legal texts* (Tudor in Hedge, 1996:275)..

In the context of the University of Zululand, the majority of the current students have had poor schooling in the English language which is the medium that should be appropriated by individual students as a heuristic tool in the pursuit of knowledge. In attempting to account for the difficulty readers experience in reading texts in a

language that is not their first language, Okombo (quoted in Webb and Kembo-Sure, 2000:198) asserts that,

- (a) ordinarily we tend to use a language we already know as a model for trying to understand the nature of an unfamiliar language;
- (b) the building of linguistic constructions and the units used are not always readily obvious to the observer; we often need to make some effort to identify them;
- (c) languages are different not only in the techniques they use for building constructions, but also in the kind of elemental units they use to build them; and
- (d) we can choose to look at a language in a way that is different from what we are accustomed to.

Thus, there is an unanswerable case for the teaching of Standard English to meet the institutional objectives of an enabling education and to provide the qualifications for membership in a wider community, and the means for extending awareness through the written word beyond the bounds of immediate experience (Widdoson in Hedge, 1996:77). As observed by Webb and Kembo-Sure (2000:5) cognitive development in a learner can occur only in and through a language the learner knows very well. The following cognitive skills as enumerated by Webb and Kembo-Sure can develop only in and through a familiar language and that language is in the main the learner's first language:

- (a) The ability to understand the central purpose of a text or to summarise its main line of argument;
- (b) The ability to select information and to organize it into a new coherent whole;
- (c) The ability to discover and formulate generalisation;
- (d) The ability to understand abstract concepts and to manipulate them in arguments; and
- (e) The ability to recognize relationships between events, for example, cause and effect.

## The sociolinguistic situation of the bulk of the learners at the University of Zululand

Most legal documents are in English, with considerable use of Latin derived terms. To learners such as the ones at the University of Zululand, Latin terms are foreign. Besides, English is arguably, a foreign language for the majority of Black students at the University of Zululand, despite the fact that English is considered a second language in South Africa. This is because the 'catchments area', where the University of Zululand draws the bulk of its students is in rural KwaZulu-Natal, unlike the University of KwaZulu-Natal, which is essentially urban-based. The majority of the University of Zululand students are, therefore, monolingual, with isiZulu as their mother tongue. They do not need to use or speak English among themselves as they share the same language, isiZulu. Even in classroom situations they do not have the immediate need to use the English language. This is more so outside classroom contexts, where students from different linguistic and cultural backgrounds might need to see a common language such as English for integrative reasons.

These learners could thus be described as coming from what is commonly described in South Africa as a disadvantaged educational background, in the sense that unlike White, Indian and by and large 'Colored' students, the Black students received, albeit even now the bulk of them still receive a very poor education, for socio-

economic reasons largely. Nonetheless, they still have to learn to read and comprehend legal texts, which are usually mundane and difficult to understand. This is corroborated by Van der Walt and Nienaber's (2002:127) assertion that we experience difficulty in understanding the language of statutes because of the very nature of this language. Buthelezi (1995) discusses the notion of 'transfer of training' from their non-trained, ill-trained teacher to learners, resulting in ill-formed structures, which only become fossilized among these learners. It is only late at tertiary level that some discover that they have all along been taught ill-formed structures which deprive them of the ability to understand abstract concepts and to manipulate them in arguments. Thus it becomes even more difficult to read and comprehend legal texts, whose language is above all, uninteresting, with long unpunctuated texts, which is generally viewed to be mundane.

A similar observation was also noted in Vietnam and China where Hiep (2007) notes that 'the socio-cultural, political and physical conditions of these countries is markedly different from the Western English speaking context, where immigrants have to learn Anglo-Saxon English in order to conduct their academic, and future life with native competent English speakers. This is what Halliday (1994:54) calls 'the learning group ideal' or 'the optimum interactional parameters.'

The distinction between Second-language learning (SLL) and foreign-language learning (EFL) is also worth discussing, though briefly. According to Webb and

Kembo-Sure (2000:291) Second-language learning, on the one hand, usually takes place in situations of formal instruction and learners acquire the rules and units of the target language through guided instruction by a teacher. It is also asserted that a characteristic feature of this type of language learning is that learners are exposed to the target language in informal situations, as it is heard on the radio and television, in shops, and in public places. Our view in this regard is that although Webb and Kembo-Sure's assertion could be valid in respect of other areas of second-language learning, this does not necessarily apply to the University of Zululand students whose rural catchment area is characterized by the monolingual use of isiZulu. Therefore, it cannot be generalized and presumed that the linguistic situation as it obtains in urban areas is the same as the one in rural areas.

On the other hand, it is argued, whilst Foreign-language learning also takes place in formal learning situations with guidance from teachers, the target language is not usually part of the everyday experience of the learners, and as such does not play a meaningful role in their lives (Webb and Kembo-Sure, 2000:291). As argued by Webb and Kembo-Sure (2000:291) Second-language learning and Foreign-language learning have the same goal which is to enable learners to gain competence in the target language.

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## Aspects of reading and interpretation

Ferguson (1973:29) has observed that even the average native reader of English experiences several reading limitations. As said above, the question of comprehension of the material that one reads comes first. Comprehension, therefore, becomes fundamental in the reading process for a student to read appropriately. The student's understanding of the words that are used, linking words or cohesive devices is above all, of key importance as this aids understanding of a text. This becomes more so in reading legal material where the language is generally unpalatable and mundane. If a reader-student does not pay attention to language cues, the reading might only be superficial and thus affect comprehensibility of texts. Furthermore, Ferguson (1973) argues that besides taking note of such cues as linking words, the overall phraseology of each sentence and the words that are used, a good reader ought to have purposeful reading from the outset and adopt a more flexible attitude. In order to maximize comprehensibility, a good student reader also needs to judge what particular information is wanted, what degree of comprehension is needed and what use is to be made of that information or material that is read. This is in order for that information to be retained in one's long term memory. While we note that the whole question of comprehension is highly complex, it becomes necessary to subcategorise reading comprehension from four main angles: literal comprehension, interpretation, critical evaluation and creative thinking.

The literal comprehension skill involves understanding the direct meaning of each word, idea or sentence, as a whole, within context. As is often the case in legal documents, this supplies meanings that are not directly stated by additional information. This additional information will require the good reader-student to glean from within the lines. This might require making generalizations and reasoning the cause and effect of the material that is read, anticipating ending of the read texts, making comparisons, sensing motives of argumentation and discussing the relationships. In order for one to attain this, obviously a clear understanding of the language that is employed is fundamental and central to the whole reading process.

Then there is critical evaluation of the material that is read. One thus needs to be able to pass judgment on the quality, value, accuracy and truthfulness of information. In addition to this, a good student-reader who comprehends the language of the text very well, also needs to evaluate the effect that the author wishes to produce and the reason behind such a proposition or argument. Finally, there is creative thinking, which moulds budding lawyers to express their arguments soundly and explore new ideas. Basically, this ought to spur the mental question or inquiry into the argument. In all the above language plays a key role. It provides the legal student with contextual cues for his /her manipulation of the reading material and thus one's thinking. The information that is read must first be

recognized and organized by first noting the way that language is couched, its cohesive devices, et cetera.

There seems to be indication that if reading of any text is problematic or poses limitation for native readers, it obviously follows that this ought to be equally limiting for readers who are second language learners reading legal texts or foreign language learners as the situation obtains in South Africa, depending on where such learners hail from, particularly considering their background in reading legal texts in English. Such an observation is thus related to the phonological component of the grammar system of the target language. It surely must pose more hurdles for these second or foreign users of English in learning contexts. Reading material particularly in legal texts, necessitate decoding of written material to the phonetic patterns of the target language, English, which is altogether a language that has to be mastered by the student-reader. The student-reader would thus need to:

- (a) increase his/her comprehension of legal texts;
- (b) isolate the main ideas by paying particular attention to language;
- (c) not be unnecessarily held up by unknown vocabulary, which would interfere and distract his/her comprehension of the material and
- (d) would need to concentrate and build confidence, in order to examine new words and their expressions as these will be held together by the framework within which language is generally organized and employed in texts.

In adopting such an approach, however, the legal student will need to do some objective evaluation of his/her comprehension and avoid interference from the native language system, which could be accentuated. The student would also need to pay attention to detail, by looking at the way language has been used, such as

unknown vocabulary, Latinate terms, which could obviously frighten the student into not reading, thereby, achieving the whole effect of inhibition rather than motivation to read on.

In his recent study on the topic *The noun phrase and the verb phrase as central grammatical constituents in teaching the English language in a non-native speaker context*, Mkhathshwa (2005) privileges the foregrounding of the syntactic categories subject noun phrase and predicate verb phrase as basic structures in the English language that express the core idea of each part of the sentence (Flower and Sitko, 1989:533). Mkhathshwa's (2005) rationale of foregrounding the subject noun phrase and the predicate verb phrase derives from his advocacy of the distinction between 'nuclear and non-nuclear' constituents (Brown and Miller, 1991:92). As argued by Brown and Miller nuclear constituents of the sentences are NP+VP (92). Brown and Miller (1991) further argue that nuclear constituents are obligatory for the sentence to be accepted as grammatical and that non-nuclear constituents are optional and typically, modifiers. This fact notwithstanding, we argue, in Huddleston and Pullum's terms that as modifiers are tightly integrated into the structure of the clause, their role of specification cannot go unnoticed (cf. Huddleston and Pullum, 2005).

Although the syntactic categories noun phrase and verb phrase are the basic structures in the English language, many writers construct sentences using fronting devices as well as other syntactic categories which carry adjectival and adverbial information. Thus the left-most constituent is not always the grammatical subject and it is frequently the case in declarative sentences that adverbs or adverbial phrases may precede the grammatical subject (cf. Brown and Miller, 1991:131).

Mkhatshwa (2005) established from the students' work that it cannot be presumed that non-native speakers would have knowledge of the structure and working of the English language without explicit instruction. This grammatical knowledge of sentential structure, as argued by Mkhatshwa also applies to native speakers in order for them to fully appreciate and negotiate meaning, in terms of what they mean to say exactly. By focusing on the nominal group and the verbal group in the analysis of the sentences, Mkhatshwa demonstrated that students' lack of knowledge of the logical structures of these syntactic categories restricts their ability to access information in the form of ideas. Thus failure to foreground the subject noun phrase and the predicate verb phrase as the immediate grammatical constituents, results not only in the students' accessing of information being restricted, but also in their inability to identify the main idea in any given sentence in English.

The approach that foregrounds the subject noun phrase and the predicate verb phrase in teaching the English language is, in our view, more amenable to the reading of certain types of texts where the focus is on identifying the core idea. Our view in this regard is corroborated by Chilver's (1992:46) assertion that adverbs and adjectives tend to be used rather sparingly in business where the emphasis is on factual reporting rather than 'colourful' descriptions. Similarly, McCallum and Strong (1990) argue that adjectives and adverbs add to the framework of a sentence by adding details.

As argued by van der Walt and Nienaber "we experience difficulty in understanding the language of statutes because of the very nature of this language. The writers of these texts use long, complex sentences, they tend to write in the passive, and use words rarely employed in everyday language. What is needed is a strategy to decode or decipher the language that is used in these texts" (2002:127). Thus we argue that one cannot only foreground the subject noun phrase and the predicate verb phrase in reading complex legal texts without taking into account the functional role of the other linguistic structures that obtain within the logical structures of both the nominal group and the verbal group.

This then necessitates that we probe further into the internal structure of both the nominal group and the verbal group to determine how the different linguistic

units, be they single words, phrases or clauses, relate to one another within each sentence and what functional role they play within these constituent groups.

It is against this background, therefore, that this study assumes that using adjectival and adverbial information in legal texts enhances clarity and precision of the expression as mediated by the text. This derives from the fact that within the logical structures of the nominal group and the verbal group, adjectives and adverbs as modifiers respectively, assume the structural role of specification deriving from a different functional component within the semantics (Halliday and Hasan, 1997:39). For purposes of exemplification the following sentence taken from Huddleston and Pullum (2005:187) will suffice: *Politicians who make extravagant promises aren't trusted.* In the sentence above, the relative clause *who make extravagant promises*, serves to restrict the denotation of the head noun politicians. The lack of trust does not apply to all politicians, but just the ones who make extravagant promises. The information given in the relative clause is an integral of the larger message as it plays an essential role in defining who is being said to lack public trust (cf. Huddleston and Pullum, 2005:187).

The underlying argument advanced in this study therefore is that when we add the modifiers, we identify the particular. This argument is corroborated by Snyman's (2002:64) assertion that once it is clear that there was an act or omission (conduct) on the part of X, the step in the determination of criminal liability is to

investigate whether the conduct complied with the definitional elements of the crime with which X is charged. In Snyman's (2002) explication, by 'definitional elements' is meant the concise description of the requirements set by the law for liability for the specific type of crime with which X is charged, as opposed to other crimes (Snyman, 2002:64). Thus in Snyman's view,

the definitional elements refer not merely to the kind of act (possession, sexual intercourse) but also a description of the circumstances in which the act must take place, such as, for instance, the particular way in which the act must be committed (for example, "violently", in robbery), the characteristics of the person committing the act (for example, 'male person' in rape, 'somebody who owes allegiance' in high treason), the nature of the object in respect of which the act must be committed (for example, 'drugs' or "movable corporeal property" in theft), and sometimes a particular place where the act has to be committed (for example, driving 'on a public road' ) or a particular time when or during which the act has to be committed (for example, 'during the hunting season').

Section 1(1) of the Corruption Act 94 of 1992 which is a text of statutory formulation quoted in Snyman (2002:377) and reproduced hereunder best attests to the assertion that when we add the modifiers, we identify the particular.

1. **Prohibition of offer or acceptance of benefit for commission of the act in relation to certain powers or duties-** (1) any person-
  - (a) who corruptly gives or offers or agrees to give any benefit of whatever nature which is not legally due, to any person upon whom-
    - i. any power has been conferred or who has been charged with any duty by virtue of any employment or the holding of any office or any relationship of agency or any law, or to any one else, with the intention to influence the person upon whom such power has been conferred or who has been charged with such duty to commit or omit to do any act in relation to such power or duty; or
    - ii. any power has been conferred or has been charged with any duty by virtue of any employment or the holding of any office



or any relationship of agency or any law and who committed or omitted to do any act constituting any excess of such power or any neglect of such duty, with the intention to reward the person upon whom such power has been conferred or who has been charged with such duty because he so acted; or

(b) upon whom any power has been or who has been charged with any duty by virtue of any employment or the holding of any post or any relationship of agency or any law and who corruptly receives or obtains or agrees to receive or attempts to obtain any benefit of whatever nature which is not legally due, from any person, either for himself or for anyone else, with the intention-

- i. that he should commit or omit to do any act in relation to such power or duty, whether the giver or the offeror of the benefit has the intention to influence the person upon whom such power has been conferred or who has been charged with such duty, so to act or not; or
- ii. to be rewarded for having committed or omitted to do any act constituting any excess of such power or any neglect of such duty, whether the giver or offeror of the benefit has the intention to reward the person upon whom such power has been conferred or who has been charged with such duty, so as to act or not,

shall be guilty of offence."

In addition to the provisions of Section 1(1) of the Corruption Act 94 of 1992 the following provisions from Neethling et al (2001) are also worth noting as instances that attest to the assertion that when we add the modifiers, we identify the particular.

1. "A person does not act wrongfully if he performs an act (which would otherwise have been wrongful) while exercising a statutory authority" (105).
2. "A person is accountable (*culpa capax*) if he has the necessary mental ability to distinguish between right and wrong if he can also act in accordance with such appreciation" (121).
3. "A person acts intentionally if his will is directed at a result which he causes while conscious of the wrongfulness of his conduct" (123).

## **Research Methodology**

Information for this study was gathered from both secondary and primary sources.

### **Secondary sources**

Useful information was obtained from various publications such as textbooks and previous studies on the subject.

### **Primary sources**

More specific information that attaches weight on the use of the adjectival and adverbial information in legal texts was obtained from the Statutes of the University of Zululand and the University of Swaziland respectively.

### **Definition of terms**

The following definitions save one, have been extracted from Horne and Heinemann (2003) and Crystal (1985).

1. **Coherence** - refers to the 'logical relationship' between the ideas and concepts expressed in the discourse (Horne and Heinemann, 2003).
2. **Cohesion** - refers to the 'links' that exist between the individual parts of a text (Horne and Heinemann, 2003).
3. **Discourse analysis** - refers to the process of examining the structure of naturally spoken and written language (Horne and Heinemann, 2003).
4. **Grammatical constituent** - is a term used to refer to a linguistic unit which is a component of a larger construction (Crystal, 1985)

5. **Modification** - is a term used in syntax to refer to the structural dependence of one grammatical unit upon another (Crystal, 1985).
6. **Statute** - a written law passed by a legislative body (The Concise Oxford Dictionary).
7. **Text** - is a linguistically coded device that serves as a vehicle for the mediation of communication (Mkhatshwa, 1999, Unpublished Doctoral Thesis, University of Zululand).

### **Significance of the study**

The significance of the study is that it foregrounds grammatical analysis in the act of reading legal texts since the interpretation of a passage sometimes depends crucially on grammatical analysis (cf. Greenbaum and Nelson, 2<sup>nd</sup> ed. 2002:6). The study also takes into account the linguistic situation of second language learners as it relates to their competence to discern how specific language structures are put to use in texts to perform specific tasks. Thus foregrounding the noun phrase and the verb phrase and its extension to cover subordination within both the nominal group and verbal group is of necessity a pragmatic approach towards addressing the linguistic needs of the target group within the context of second language learning. From a sociolinguistic perspective, therefore, the identity of the target group located within a specific speech community is crucial in determining and adopting a teaching approach that is amenable to the needs of the target group.

### **Anticipated dissemination of research findings**

It is envisaged that articles for publication will be extracted from some of the chapters of the study. In addition, specific aspects of the research findings will be incorporated into the syllabus that deals with English for Law students. On the basis of the outcome of the research, workshops on the role played by adjectival and adverbial information in enhancing clarity and precision of the expression in legal texts will also be conducted.

This thesis is demarcated as follows:

**(a) Chapter One: Introduction**

This chapter focuses on the aims, objectives, hypotheses, motivation for the study, research methodology, definition of terms, significance of the study, and anticipated dissemination of research findings.

**(b) Chapter Two: Literature Review**

In this chapter we probe into the internal structure of both the nominal group and the verbal group to determine how the linguistic units, be they single words, phrases or clauses, relate to one another within each sentence and what functional role they play within these constituents groups.

**(c) Chapter Three: Research Methodology**

In this chapter the following sub-topics are discussed; the method chosen for data analysis, data collection, the nature and the role of the data, and the admissibility of the data.

**(d) Chapter Four: Exposition and Data Analysis (1)**

In this chapter, the exposition and analysis focus on the use of the following linguistic structures; adverbial clauses of condition introduced by the subordinator *if* (positive condition), adverbial clauses of condition introduced by the subordinator *unless* (negative condition), adverbial clauses of time introduced by the subordinators *while, as soon as, when, whenever, until, after,* and adjectival relative clauses introduced by the relative pronouns *who, which* and *whose*.

**(e) Chapter Five: Exposition and Data Analysis (2)**

In this chapter, the exposition and data analysis focus on the following language structures; existential sentences, prepositional phrases, adjectival relative clauses, adverbial clauses and the modal verb *shall*.

**(f) Chapter Six: Discussion of the implications of the study**

In this chapter, we establish that one of the most conspicuous implications of the study is that in second language learning a thorough study of grammar should head the list of what needs to be taught in the language. We also argue that since the way a sentence is structured is crucial to meaning, mastery of English grammar - syntax or sentence structure is to be aimed for within the context of second language learning and acquisition.

**(g) Chapter Seven: Conclusions and Recommendations**

This chapter concludes the study by drawing on the arguments advanced in the literature review in chapter two, exposition and data analysis (1) in chapter four, exposition and data analysis (2) in chapter five and also in the discussion of the implications of the study in chapter six. Having rendered the conclusion, we then make recommendations based on the discussion of the implications of the study.

**(h) Appendix A: Statute of the University of Zululand**

**(i) Appendix B: Statute of the University of Swaziland**

**(j) Bibliography**

## Chapter Two

### Literature review

#### 2. Introduction

We experience difficulty in understanding the language of Statutes because of the very nature of this language. The writers of these texts use long, complex sentences, they tend to write in the passive, and use words rarely employed in everyday language. What is needed is a strategy to decode or decipher the language that is used in these texts (van der Walt and Nienaber, 2<sup>nd</sup> ed. 2002:127)

In order to teach students how to operate in an academic context, they must know the language of English academic texts, and this in turn will involve developing in them an understanding of how academic texts function in society; how academic texts are produced; how academic discourse relates to the English language as a whole, and how registerially specific are the linguistic structures of academic discourse (Leckie-Tarry in Ghadessy, 1993:28)

According to Bex (1996:95) texts orient themselves to readers in particular ways, and organize their information in ways appropriate to the medium selected and the contexts in which they occur. Thus, it is argued that in the construction and interpretation of texts we pay attention to the elements in our language which are capable of encoding various functions and particular realizations of these functions determine the register of the text under consideration (Bex, 1996:95). In this study we define a text as a linguistically coded device that serves as a vehicle for the mediation of communication. Our definition is corroborated by Crystal's (1985:307) assertion that texts are seen as language units which have a definable communicative function, characterised by such principles as cohesion, coherence

and informativeness. Bex's (1996:76) contention that a text does not consist of sentences but is realized by or encoded in sentences is not at odds with the notion of a text being a linguistically coded device that serves as a vehicle for the mediation of communication. We, therefore, uphold the view that sentences comprise a category of well-formed structures capable of expressing thoughts that can stand on their own, of describing whole situations (Chierchia, 1990:61). Halliday and Hasan (1997:293; 294) argue that any piece of language that is operational, functioning as a unit in some context of situation, constitutes a text since a text can be of any length. Thus the sentences as they obtain in the two statutes under consideration in chapter four and chapter six respectively, are to be conceived of as free-standing texts for particular purposes. The free-standing character of the sentences in the said statutes contradict Horne and Heinemann's (2003:184) assertion that a crucial principle underlying discourse study is that the sentences that make up a text are related to, and are dependent on, one another and that the relationship between the sentences in a text creates cohesion.

In the context of the statutory sentences under consideration, cohesion inheres in the internal structure of the sentences as opposed to it being created in the relationship between the sentences. Our argument in this regard is understandable since sentences, as opposed to whole texts, appear to be the smallest autonomous information units in a language (Chierchia, 1991:61). Horne and Heinemann's



(2003:198) assertion that in discourse analysis, the analysis is on the *parts* and the relationship between the parts supports our method of analysis in chapter five and chapter seven as we isolate and determine the function of the modifying elements in relation to the basic sentence. Thus, in this study, instead of focusing on the mutual dependence between the sentences thereby forging a link between them, we focus on how the syntactic constructions within the individual sentences forge cohesion which creates coherence with a definable communicative function.

In this study, therefore, we argue that the difficulty we experience in reading the language of Statutes (cf. van der Walt and Nienaber, 2002) can partly be resolved by recognizing that there is a 'relationship between language function and language form' (cf. Leckie-Tarry in Ghadessy, 1993:28). This recognition should then enable us as readers acquire the requisite 'knowledge of how language works in particular situations' as this 'serves to constrain, if not determine interpretation' (cf. Bex, 1996:109). As argued by Matthiessen (in Ghadessy, 1993:221) we interpret texts in terms of the registers they instantiate and we also produce texts as instances of particular register types. According to Rose and Purkis (1991:62) 'a register is the level at which we make our language work. It is also argued that register depends chiefly on vocabulary, sentence structure and suitability of language to situation (Rose and Purkis, 1991:62). Similarly, Leckie-Tarry (in Ghadessy, 1993) argues that a register is constituted by the linguistic

features which are typically associated with a configuration of situational features - with particular values of the field, mode and tenor (29). This view is corroborated by Leech et al's (1982:9) assertion that register can be subdivided into three categories of language use, each of which affects the language variety and these categories are *tenor*, *mode* and *domain*. The same sentiments are expressed by Bex (1996:95) in his argument that the fundamental claim is that language is multifunctional in at least three respects:

1. the field - what the text is doing, that is, what the language is being used to talk about (Eggins, 2004:90).
2. mode - the medium of communication, that is, the role the language is playing in the interaction (Eggins, 2004, 90).
3. tenor - the relationship between the participants, that is, the role relationships between the interactants (Eggins, 2004:90).

Eggins (2004:90) argues that of all the things going on in a situation at a time of language use, only these three variables have a direct and significant impact on the type of language that will be produced. Wardhaugh (1998) argues that registers are sets of language items associated with discrete occupational or social groups (48). Thus the language of law is different from the language of medicine, which in turn is different from the language of engineering and so on (Trudgil, 1974:104). Similarly, Leech et al (1982:10) argue that the language of a legal document will be different from that of an advertisement, and the language of a religious service will be different from that of a newspaper reporting since language varies according to the activity in which it plays a part. For purposes of this study, suffice it to say

register is determined by what is taking place, who is taking part, and what part language is playing (Halliday as quoted by Leckie-Tarry in Ghadessy, 1993).

In this study, therefore, we argue, in Lytle's (1974:82) terms, that the traditional analysis of sentence structures in terms of constituents and their modifiers *cannot* be dismissed as a manifestation of linguistic naivete. As argued by Aarts and Aarts (1988:79) sentences can be described by specifying the *functions* that their constituents have in sentence structure and the *categories* to which their constituents belong. Thus the study of linguistic units and their principles of combination would not be complete without an account of what these units mean, what they are used to talk about, and what they are used to communicate (Akmajian, 1995:229). It is worth repeating, therefore, that the assumptions of this study are that using adjectival and adverbial information in legal texts enhances clarity and precision of the expression as mediated by the text and also that reference both within the nominal group and the verbal group in legal texts is susceptible of further specification.

According to Akmajian (1995:229) one important property of a sentence is its communicative potential and sentences with different structures often have different communicative functions. This assertion is corroborated by Burton - Roberts' (1986) argument that you have to **CONSTRUCT** your sentences as and

when the need arises (249) and that you can only CONSTRUCT SOMETHING if that thing is COMPLEX and has structure (Burton-Roberts, 1986:250). Furthermore, you can only 'know how to construct' the things in a set by knowing general principles that apply to them. Hence it is important to know that within any given sentence in English,

The logical structure of the nominal group is one of modification; it consists of a Head, with optional MODIFIER. The modifying elements include some which precede the head and some which follow; the distinction in the relative position of modifying elements is semantically significant, so modification preceding the head is referred to by the term PREMODIFIER and that following the head is referred to by the term POSTMODIFIER (Halliday and Hasan, 1997:39-40).

Similarly, Downing and Locke (2006) argue that,

The nominal group has four primary elements or structural functions: the head, which is the central element, the determiner and the pre-modifier functions in the pre-head position, and the post-modifier function in post-head position. Of all these elements, the pre- and post-modifiers can usually be omitted, while the head together with the determiner, when present, may realize the Nominal Group (Downing A and Locke P, 2<sup>nd</sup> ed., 2006:402).

It is therefore important to note that when we name an entity, we usually add information about it which shows how we 'experience' or perceive it (Downing and Locke, 2006:402). The sentiments of the two extracts above exemplify the argument that modifiers or modifying elements may or may not be present in a phrase thus rendering them syntactically accessory as without them a construct is simply a different type in the construction of sentences (Hurford, 1994:129). Similarly, Burton-Roberts (1986) argues that in a Noun Phrase, constituents that

modify the head noun are typically optional - they can be omitted without affecting the well-formedness of either the NP itself or the sentence in which it appears

(56). The accessory character of modifiers is also attested to by Brown and Miller's (1988:92) argument that syntactically, modifiers are optional constituents.

These arguments advanced by Hurford, Burton-Roberts and Brown and Miller are corroborated by Lyons' (1983:497) assertion that,

if we are describing an action in English, we may tell our interlocutor, not only who did what to whom (or what), but also when, how or why he did it. Generally speaking, however, we are not obliged by the grammatical and lexical structure of English to give this circumstantial information. These circumstances are normally referred to by means of syntactically optional adverbs or adverbials.

Thus it would seem that these writers relegate the use of modifiers in a sentence to a position of insignificance since they (the modifiers) are syntactically accessory in the construction of a sentence. Aarts and Aarts (1988) argue that the occurrence of a modifier is never essential for the internal structure of a noun phrase and that a modifier can easily be omitted without affecting the acceptability of the noun phrase (63). Our reading and understanding of the arguments advanced by Hurford (1994), Burton-Roberts (1986) and Aarts and Aarts (1988) in respect of these linguistic devices is that in so far as attempting to ascertain the main idea, modifiers are 'not crucial.' This being the case, it is essential to foreground that which is spoken about as embodied by the simple

subject and the simple predicate. Our view in this regard is attested to by Flower and Sitko (1989) assertion that,

Each complete subject contains a simple subject, and each complete predicate contains a simple predicate, hereafter referred to as the verb. The simple subject and the verb are the key words that express the core idea of each part of the sentence. The simple subject tells whom or what the sentence is about. It may be a single word or a group of words, but does not include modifiers. The verb tells what the subject does or is. It may be one word or a verb phrase. The verb phrase may be interrupted by modifiers, but the modifiers are not part of the verb (533).

In this study, therefore, we argue, in Akmajian's terms that sentences with different structures, as is the case with legal texts, often have different communicative functions (1995:229). This is best exemplified by the following sentence (which typifies legal provisions) extracted from Van der Walt and Nienaber (2002:128):

**A person**

who commits an act

which constitutes an offence,

and who at the time of such commission suffers

from a mental illness or mental defect

which makes him incapable-

(a) of appreciating the wrongfulness of his act,

or

(b) of acting in accordance with an appreciation of the wrongfulness of his act,

shall not be criminally responsible for such an act.

Van der Walt and Nienaber (2002:128) argue that if we remove those parts of the sentence that come between the subject of the sentence and its main verb, the sentence reads as follows:

'A person who commits an act.....shall not be held responsible for such an act.'

Van der Walt and Nienaber (2002:129) argue that what occurs in the middle of these two sections of the act are the conditions under which a person shall not be held responsible for an act. Notwithstanding the usefulness of van der Walt et al's grouping of the constituents, we, however, find the analysis too simplistic as it obscures the significant role played by the linguistic devices obtainable within the structure of the nominal group. Our view in this regard is corroborated by Kroeger's (2005:28) assertion that the words within a phrase or sentence are organized into groups or constituents and that these groupings are often crucial in determining what the sentence means. As is evident from the structural representation of the sentence above, the internal structure of the noun phrase is constituted by a number of clauses and phrases functioning either as modifiers or sub-modifiers. For example, within the internal structure of the relative clause *who commits an act*, the noun *act* is acting as the head of the modifying clause *which constitutes an offence*.

As argued by Akmajian (1995:160) noun phrases do not only consist of articles followed by nouns. Sometimes the noun in a noun phrase can be followed by a modifying phrase. With specific reference to the legal provision above, the noun *person* is followed by an immediate modifying clause *who commits an act* which is necessary for the specification of the kind or type of person talked about. Thus,

we argue, in Halliday and Hasan's (1997:96) terms, that the necessary specification is contained in the modifier and that a modifier has the effect of explicitness and of specifying precisely that which is, the point of information. Similarly, Daniels and Daniels argue that modifiers make words more specific by describing or limiting them in some way (1991:168). Thus, modifiers, optional as they may be, deal essentially with important issues of identification and specification 'given their structural role deriving from a different functional component within the semantics' of any given sentence in English (cf. Halliday and Hasan, 1997:40).

## 2.1. The Internal Structure of the Subject Noun Phrase

The sentences reproduced hereunder exemplify the different types of constructions in which the subjects range from simple heads to the full complexity of Nominal Group structures.

- a) As soon as a sectional title register has been opened and a sectional title scheme comes into existence, the developer may alienate sectional title units.

**The developer may alienate units.**

- b) In these circumstances the trustees of the body corporate are acting on behalf of the sectional title owners.

**The trustees are acting.**

- c) The ongoing financial soundness of the company is of paramount importance to the shareholder. (*multiple premodification -more than one premodifier may be related to a single head, with no grammatical limit on the number*)

**The soundness is of importance.**



- d) The application of the entity concept to the accounting process of the company produces no conceptual difficulties as the company, as a legal person, exists independently of its members.

**The application produces no difficulties.**

- e) The basic premise of accounting theory is the postulate that for every debit entry there must be a credit entry.

**The premise is the postulate.**

- f) The legislator is currently in the process of promulgating a new Financial Reporting Bill.

**The legislator is in the process.**

- g) A statement in the balance sheet that a company owes a specified sum to a shareholder, to whom the balance sheet was sent in the ordinary course of events before the annual general meeting, constitutes sufficient acknowledgement of liability.

**A statement constitutes acknowledgement.**

- h) By utilizing an association agreement the necessary flexibility, tailored to the needs of the particular undertaking, can be obtained.

**The flexibility can be obtained.**

- i) An accounting officer of a corporation has a right of access to the accounting records and all the books and documents of the corporation at all times, and to require from members such information and explanation as he considers necessary for the performance of his duties as an accounting officer.

**An officer has a right.**

It is worth noting that all the sentences save two, have complex noun phrases as their grammatical subjects. Thus we have the following subject noun phrases as

derived from their respective sentences:

- (a) The developer
- (b) The trustees of the body corporate

- (c) The ongoing financial soundness of the company
- (d) The application of the entity concept to the accounting process of the company
- (e) The basic premise of accounting theory
- (f) The legislator
- (g) A statement in the balance sheet that a company owes a specified sum to a shareholder, to whom the balance sheet was sent in the ordinary course of events before the annual general meeting
- (h) The necessary flexibility, tailored to the needs of the particular undertaking
- (i) An accounting officer of a corporation

Although the noun phrase can assume three functional roles within sentences, that is, acting as subject, object or as complement, we will, nonetheless, confine our discussion to its role as subject and the structure inherent in its composition. As argued by Leech et al (1982) the structures of NPs are very diverse and the chief elements are:

1. The HEAD.
2. The PREMODIFIERS.
3. The POSTMODIFIERS.

Similarly, Greenbaum and Quirk (1997:375-6) argue that in describing complex noun phrases, we distinguish three components:

- (a) The head, around which the other components cluster and which dictates concord and other kinds of congruence with the rest of the sentence outside the noun phrase.
- (b) The premodification, which comprises all the items placed before the head - notably adjectives and nouns (*functioning as adjectives*).
- (c) The postmodification, comprising all the items placed after the head - notably prepositional phrases, non-finite clauses, and relative clauses.

To use Greenbaum and Quirk's (1997:375) terms, we cannot understand the noun phrase subject of these sentences unless we recognise their component parts as

they are set out in their respective sentences. Following now is an analysis of the constituent structure of the noun phrases under discussion. Our justification for this analysis derives from the fact that phrases and sentences are compositional and that the meaning of a syntactically complex expression is determined by the meaning of its constituents and their grammatical relations (Akmajian, 1995:223). Good's (2002:81) assertion that if you are thinking about a particular beer, apple, or political party, then you will refer instead to *the* beer, *the* apple or *the* political party is germane to one's understanding of the syntactic role of various linguistic units that obtain within sentential structures.

It is noticeable, therefore, that the word *the* singles out and points to a specific one or specific ones (Good, 2002:82). Hence you refer indefinitely to a beer, an apple, or a political party in general without specifying which beer, which apple, or which political party when you 'leave out the article *the*' thus 'producing a meaning of generalization.' (cf. Good, 2002:83).

According to Horne and Heinemann (2003:173) when we examine how words 'work' in sentences, we find that words fall into two broad categories; 'structure' words and 'content' words. The difference between structure words and content words is crucial. Content words, as defined by Horne and Heinemann (2003) are items of vocabulary, such as nouns, verbs, adjectives, and adverbs and are used to name

objects and concepts. Structure (or function) words, on the other hand, include articles (or determiners): *a, the, that*, prepositions: *in and of*; and pronouns: *he and it* (cf. Horne and Heinemann, 2003:173). These structure or function words are used to provide the framework or 'glue' that hold each part of the sentence together (Horne and Heinemann, 2003:173). Thus, to be able to use language grammatically we need to know how words 'behave' together in sentences since the way a sentence is structured is also crucial to meaning (Horne et al, 2003:174-5). And as argued by Akmajian (1995:166) we can ask two questions about any given phrase:

- (1) What is its internal structure?
- (2) How does it function grammatically within a sentence?

### **2.1.1. The Subject Noun Phrase Constituent of the Sentence**

#### **The developer**

Aarts and Aarts (1988:19) argue that in the internal structure of the noun phrase, three functions can be distinguished: determiner, modifier and head and that the function of modifier is an optional one which may be realized more than once. As already argued earlier on, the optionality of the function of modifier is corroborated by Brown and Miller's argument that syntactically, modifiers are optional constituents (1988:92). Aarts and Aarts (1988) argue that the function of the determiner is, in the majority of cases, an obligatory one which can be realized

only once and is positionally restricted to the initial slot in the noun phrase (63). The internal structure of the noun phrase, *the developer*, is less complex in comparison with the internal structure(s) of the other noun phrases. The simplicity of this particular noun phrase derives from the absence of both premodifiers and postmodifiers modifying the head noun *developer*. The following remarks by Good (2002:81) as regards the role or function of the articles are worth quoting at length:

The articles, *a*, *an*, and *the* are associated with, and come before nouns. They look and act a lot like adjectives. But they don't describe nouns, they don't attribute qualities to the thing or person named by the noun, and they don't have any comparative or superlative forms as other adjectives do. Instead, they define nouns as nouns, defining the thing or person named as a general class or as a specific member of a larger class.

Lyons (1983:647) argues that the definite article in English is a demonstrative adjective uninflected for gender and number and unmarked for proximity. So, with reference to the noun phrase *the developer*, the article *the*, introduces explicitness in respect of the referent, *the developer*. As argued by Greenbaum and Quirk (1997:72) the definite article presupposes an earlier mention of the item so determined. Our view in this regard is substantiated by Halliday and Hasan's (1997) assertion that the definite article is the item that, in English, carries the meaning of specific identity or 'definiteness' in its pure form. Thus, in the context of the basic sentence, *the developer may alienate units*, the article *the*, singles out and points to a specific one or specific ones (Good, 2002:82).

It is worth reiterating therefore that leaving the article out produces a meaning of generalization, even if specific items had to satisfy that general situation (Good, 2002:82). This argument is attested to by Lyons's (1983:452) assertion that it is characteristic of at least the most typical determiners, including the definite article, that their primary semantic function is that of determining (that is, restricting or making more precise) the reference of the noun phrases in which they occur. Similarly, Huddleston and Pullum (2005:91) argue that the main semantic contribution of the determiner is to mark the NP as definite or indefinite and that the word *the* indicates that the head of the NP is considered *sufficient in the context to identify the referent* (Huddleston and Pullum, 2005:91). Thus, we argue, in Aarts and Aarts' (1998) terms, that from a semantic point of view, the determiner function can be said to determine the reference of the noun phrase - whether its reference is definite or indefinite, whether one or more referents are intended (62).

#### **The trustees of the body corporate**

Within the structure of the complex noun phrase, *the trustees of the body corporate* the word *trustees* is the head-noun of the noun phrase and is modified by the adjectival prepositional phrase of *the body corporate*. In Flower and Sitko's terms the head noun *trustees* is the simple subject of the complete subject of *the body corporate*. The postmodification instantiated here exemplifies Akmajian's

(1995) argument that noun phrases do not only consist of articles followed by nouns.

On the contrary, the noun phrase can be followed by a modifying clause (160).

### *The ongoing financial soundness of the company*

The simple subject is constituted by the noun phrase *the soundness* which is characterized by premodification and postmodification. The head noun *soundness* is preceded by two premodifiers which are crucial in determining the kind of soundness one is referring to. As argued by Good (2002:98) when the adjective precedes the noun, it is in the attributive position, when it follows the noun it is in the predicative position. Characteristically, therefore, the soundness is ongoing and is financial.

### **The application of the entity concept to the accounting process of the company**

Leech et al (1982:62) argue that the postmodifiers of a noun phrase may be prepositional phrases and that in postmodification there is in principle no limit to the length of noun phrases. It is also argued that the occurrence of subordinate prepositional phrases as postmodifiers is very common (Leech et al, 1982:62). Thus it is possible for a noun phrase to reach considerable complexity as a result of the number of postmodifiers prevalent in the structure of the noun phrase (cf. Leech, 1982:62). In the noun phrase above three adjectival prepositional phrases are identifiable, namely, *of the entity concept, to the accounting process and of the*

*company*. The first two prepositional phrases, *of the entity concept* and *to the accounting process* postmodify the head noun *application*. The prepositional phrase *of the company* postmodifies the noun *process* located within the structure of the previous prepositional phrase *to the accounting process*. It is also noticeable that the nouns *concept* and *process* within the structures of the prepositional phrases *of the entity concept* and *to the accounting process* respectively are themselves modified by the words *entity* and *accounting* respectively.

#### The basic premise of accounting theory

Burton-Roberts (1986) argues that in a phrase containing a modifier, the element that is modified forms the essential centre of the phrase and is said to be the HEAD of the phrase (37). So, with specific reference to the noun phrase *the basic premise of accounting theory* the word *premise* is the head noun which precedes the adjectival prepositional phrase *of accounting theory*. And within the prepositional phrase itself the word *accounting* modifies the noun *theory*. According to Rose and Purkis (1991:39) any word which modifies another word in a sentence must be placed as closely as possible to the word it belongs to or modifies. It is further argued by Rose and Purkis (1991:39) that the position of a word in a sentence will normally decide its function or use. Rose and Purkis' argument in this regard is exemplified by the positioning of the word *basic* as a modifier in relation to the word *premise* as the modified word. We, therefore, argue that the internal



structure of the noun phrase *the basic premise of accounting theory* exemplifies Leech et al's argument that in a phrase composed of head and modifiers, premodifiers tend to be single words and postmodifiers tend to be phrases or clauses (60). The definite article as a function word serves to introduce the noun phrase, and functions as a modifier (Leech et al, 1982:51).

**A statement in the balance sheet that a company owes a specified sum to a shareholder, to whom the balance sheet was sent in the ordinary course of events before the annual general meeting**

In the noun phrase above, the following linguistic units, each with a specific function, are identifiable:

- (i) prepositional phrase - *in the balance sheet*
- (ii) that-clause, dependent and carries adjectival information - *that a company owes*
- (iii) noun phrase, object of the owing - *a specified sum*
- (iv) prepositional phrase, beneficiary of the sum owed - *to a shareholder*
- (v) prepositional adverbial clause signaling goal of the statement in question - *to whom the balance sheet was sent*
- (vi) prepositional phrase, locates the context of the action - *in the ordinary course*
- (vii) prepositional phrase, modifies the word *course* and thus carries adjectival information - *of events*
- (viii) adverbial clause of time, specifying the time of serving the statement - *before the annual general meeting*

**The necessary flexibility, tailored to the needs of the particular undertaking**

In the noun phrase above the head noun *flexibility* is premodified by the word *necessary* and is postmodified by the past participial phrase *tailored to the needs* as an immediate postmodifying element. As argued by Good (2002:208) the past participial phrase invariably serves as an adjective, not as an adverb, and not as a

noun and that this adjectival phrase can either precede or follow the noun it modifies (208). Good's argument in this regard derives from the fact that the past participle can act as an adjective and that as an adjective it can show up as an adjectival phrase (Good, 2002:54). The prepositional phrase *to the needs* specifies the goal of the act signaled by the word *tailored*. The noun object *needs* is in turn modified by the prepositional phrase *of the particular undertaking*. The noun *undertaking* within the prepositional phrase *of the particular undertaking* is premodified by the word *particular* which delimits the scope of the reference.

#### **An accounting officer of a corporation**

The noun phrase consists of the word *officer* as the head noun and is premodified by the word *accounting*. The use of the indefinite article *an* (which is characteristically nonspecific in its function) serves to generalise the reference. This view is attested to by Huddleston and Pullum's (2005:92) argument that the indefinite article does not indicate that the description in the head is defining and that the description is not presented as unique in the context. Put differently, the determinative *an*, denotes that the identity of the referent is not known (Huddleston and Pullum, 2005:300). Thus it can be asserted quite emphatically that the articles serve to mark the NP as definite or indefinite rather than denoting some property of the referent (Huddleston and Pullum, 2005:117). The

prepositional phrase *of a corporation* postmodifies the head noun *officer* and as such functions as an adjectival modifier.

## 2.2. The Internal Structure of the Predicate Verb Phrase

- a) As soon as a sectional title register has been opened and a sectional title scheme comes into existence, the developer may alienate sectional title units.
- b) The developer may alienate sectional title units as soon as a sectional title register has been opened and a sectional title scheme comes into existence.
- c) In these circumstances the trustees of the body corporate are acting on behalf of the sectional title owners.
- d) The trustees of the body corporate are acting on behalf of the sectional title owners in these circumstances.
- e) The ongoing financial soundness of the company is of paramount importance to the shareholder.
- f) The application of the entity concept to the accounting process of the company produces no conceptual difficulties as the company, as a legal person, exists independently of its members.
- g) The basic premise of accounting theory is the postulate that for every debit entry there must be a credit entry.
- h) The legislator is currently in the process of promulgating a new Financial Reporting Bill.
- i) A statement in the balance sheet that a company owes a specified sum to a shareholder, to whom the balance sheet was sent in the ordinary course of events before the annual general meeting, constitutes sufficient acknowledgement of liability.
- j) By utilizing an association agreement the necessary flexibility, tailored to the needs of the particular undertaking, can be obtained (*this sentence has been rewritten to conform to the basic sentence structure as in k below*).

- k) The necessary flexibility, tailored to the needs of the particular undertaking, can be obtained by utilizing an association agreement.
- l) An accounting officer of a corporation has a right of access to the accounting records and all the books and documents of the corporation at all times, and to require from members such information and explanation as he considers necessary for the performance of his duties as an accounting officer.

In the sentences above, deleting the subject noun phrases and repositioning the adverbial clauses/ phrases (given their mobility) will thus yield the following predicate verb phrases which, to all intents and purposes, conform to the basic sentence structure in English:

- a) may alienate sectional title units as soon as a sectional title register has been opened and a sectional title scheme comes into existence.
- b) are acting on behalf of the sectional title owners in these circumstances.
- c) is of paramount importance to the shareholder.
- d) produces no conceptual difficulties as the company, as a legal person, exists independently of its members.
- e) is the postulate that for every debit entry there must be a credit entry.
- f) is currently in the process of promulgating a new Financial Reporting Bill.
- g) constitutes sufficient acknowledgement of liability.
- h) can be obtained by utilizing an association agreement.
- i) has a right of access to the accounting records and all the books and documents of the corporation at all times, and to require from members such information and explanation as he considers necessary for the performance of his duties as an accounting officer.

### 2.2.1 Constituent Analysis of the Predicate Verb Phrase

It is worth reiterating that like the nominal group, the verbal group has a logical structure consisting of a Head and Modifier, and an experiential structure in which the lexical verb expresses the 'Thing' which is typically an action, event or relation (Halliday and Hasan, 1997:113). Similarly, Burton-Roberts (1986:114) is of the view that every Verb Group contains a LEXICAL VERB as its HEAD and that this lexical verb may or may not be modified by AUXILIARY verbs (114). Burton-Roberts (1986:114) argues that auxiliary verbs are a special and very restricted set of verbs thus resulting in them being unique in some respects when compared with lexical verbs. This uniqueness attributed to auxiliary verbs is accounted for partly by the fact that their only function is to modify the lexical verb functioning as head of their Verb Group (Burton-Roberts, 1986:114). According to Huddleston and Pullum (2005:41) auxiliary verbs form a small subclass of verbs whose members are characteristically used to mark tense, aspect, mood or voice. So, in the analysis that follows, special attention will be paid to the role played by auxiliary modification.

**may alienate sectional title units as soon as a sectional title register has been opened and a sectional title scheme comes into existence.**

The lexical verb *alienate*, which functions as the head in the Verb Phrase above, is preceded by the modal auxiliary verb *may*. As argued by Burton-Roberts (1986:119)

modal auxiliaries are distinguished from the primary auxiliaries and lexical verb in always carrying tense. They do not have untensed (non-finite) forms. According to Burton-Roberts (1986:119) the verb following the modal verb in the Verb Group appears in its basic stem form. This view is attested to by the fact that the lexical verb *alienate* in the Verb Phrase above appears in its basic stem form as it is without any inflection. Given the fact that auxiliary modification, like all other types of modification, is 'optional', constructing the sentence with only the 'nuclear' constituents, will thus yield the imaginary sentence: *the developer alienates units*.

This imaginary sentence, semantically speaking, would be interpreted differently since the absence of the modal auxiliary *may* would foreclose the availability of the other meanings, namely, 'permission' and 'condition', attached to the modal auxiliary *may* (cf. Good, 2002:44). We argue that the meaning of the modal auxiliary *may* is rendered more relevant when used in relation to the adverbial clause of time as signaled by the expression *as soon as*. The *alienation of the sectional title units* talked about may only be accomplished upon the arrival of the anticipated time frame signaled by 'as soon as.' We argue, therefore, that modification in the construction of sentences is not to be construed as an accessory function to reference and predication (Downing and Locke, 2006) as it provides essential information in the communicative act.

are acting on behalf of the sectional title owners in these circumstances.

According to Burton-Roberts (1986:122) *be* is the progressive auxiliary and it requires the following verb to adopt the V-ing form. In the context of the Verb Phrase above, *are*, is the present tense form (plural) of the progressive auxiliary *be* whereas *acting* is the present progressive participle which states the continuous nature of the action (Lutrin and Pincus, 2004:30). The subsequent prepositional phrases, *on behalf, of the sectional title owners* and *in these circumstances* perform different functions within the verb phrase. The two prepositional phrases *on behalf* and *of the sectional title owners* specify the beneficiaries of the *acting*. The *acting* is not to be conceived of as necessarily benefiting the actors as they (actors) are merely agents in this regard.

It is worth noting that for purposes of this analysis we have moved the adverbial prepositional phrase *in these circumstances* to the last position. Although the mobility of adverbials does not characteristically affect the grammaticality of the sentence as a whole, this mobility creates a special effect which would otherwise not be there, had the adverbial not been repositioned. As argued by Leech et al (1982:189) an initial adverbial typically has a scene-setting role for what follows. Thus the adverbial in these circumstances 'coming early in the sentence, stresses the contrast' between what prevailed then and what prevails now.

**is of paramount importance to the shareholder**

Good (2002:46) argues that the verb *to be* can serve either as a main verb or as an auxiliary verb. When it acts as a main verb, it typically couples a grammatical subject with an adjective (predicate adjective) or it couples a grammatical subject with another noun (predicate noun) or it might couple a grammatical subject with a phrase. In the context of the verb phrase above, the verb *to be* is functioning as the main verb and it couples the grammatical subject with the prepositional phrase *of paramount importance*. The noun *importance* within the prepositional phrase *of paramount importance* is itself modified by the prepositional phrase *to the shareholder* which serves to specify the person to whom this *importance* is attached.

**produces no conceptual difficulties as the company, as a legal person, exists independently of its members**

The verb phrase above is an instance of a Verb Group consisting of just the head verb *produces* which is not preceded by any auxiliary modification. The head verb is followed by the noun phrase constituent *no conceptual difficulties* functioning as the complement of the lexical verb. The word, *difficulties*, is premodified by the word *no* as a signifier of negation and *conceptual* as an adjective. The constituents, *as the company* and *as a legal person*, serve as adverbials of reason for their respective antecedents. The adverbial phrase *as a legal person* modifies the noun *company* and as such intervenes between the noun *company* and the predicate verb



phrase *exists independently of its members*. The adverb *independently* describes the nature of the company's existence as this independence is crucial in determining the functioning of the company.

is the postulate that for every debit entry there must be a credit entry

The verb *to be* in the verb phrase above functions as the main verb and as such it couples the grammatical subject with the noun *postulate* (predicate noun). The predicate noun is then modified by the clause *that there must be a credit entry* introduced by the word *that*. The prepositional phrase *for every debit entry* functions adverbially in relation to the clause *there must be a credit entry*.

is currently in the process of promulgating a new Financial Reporting Bill

In the Verb Phrase above, the verb *to be* functions as the main verb and as such it couples the grammatical subject with the prepositional phrase *in the process* functioning as the complement. The positioning of the adverbial expression of time *currently* is crucial in determining the time-frame of the occurrence of the event or action in question. The subsequent prepositional phrase *of promulgating* postmodifies the noun *process* and is followed by the noun phrase *a new Financial Reporting Bill* which serves as the object of the *promulgation*.

### **constitutes sufficient acknowledgement of liability**

In the Verb Phrase above the lexical verb *constitutes* functions as the head verb and is not preceded by any auxiliary modification. The noun phrase *sufficient acknowledgement* functions as the complement of the main verb *constitutes*. Within the noun phrase *sufficient acknowledgement* the head noun *acknowledgement* is premodified by the word *sufficient* functioning as the adjective. The adjectival prepositional phrase *of liability* is an instance of postmodification explicitly characterizing the *acknowledgement* talked about. So, in the context of this Verb Phrase, instead of having an immediate modifier modifying the lexical verb *constitutes*, we have the complement *acknowledgement* completing the sense of the lexical verb. The complement together with the verb forms a unit of sense. It is worth noting that the complement is an obligatory constituent whereas the adjectival prepositional phrase *of liability* is generally regarded as an optional constituent. These facts notwithstanding, we argue that in the context of this Verb Phrase' construction, one cannot do away with the modifiers without removing an essential part of what the writer intends to communicate.

### **can be obtained by utilizing an association agreement**

According to Burton-Roberts (1986:124) Verb Groups containing the passive auxiliary verb are said to be in THE PASSIVE VOICE. As noted earlier on, *be* is the

progressive auxiliary. But of course, be is also the passive auxiliary. With reference to the Verb Phrase above, it is noted that following passive be, the verb obtain adopts the PASSIVE PARTICIPLE form obtained. If we place the above verb phrase in its original construction we have the following passive sentence:

By utilizing an association agreement the necessary flexibility, tailored to the needs of the particular undertaking, can be obtained.

But, transforming this passive sentence into the active would yield the following imaginary active sentence:

You / one can obtain the necessary flexibility, tailored to the needs of the particular undertaking by utilizing an association agreement.

It is noticeable from the passive construction of the sentence above that this construction results in withholding information about the agent of the process (cf. van der Walt and Nienaber, 2002:135). This fact notwithstanding, the passive is preferred when you are generalizing and want to avoid overusing the pronoun one (Good, 2002:233). The adverbial expression of manner *by utilizing an association agreement* specifies the means by which the envisaged process can be accomplished.

has a right of access to the accounting records and all the books and documents of the corporation at all times, and to require from members such information and explanation as he considers necessary for the performance of his duties as an accounting officer

Burton-Roberts (1986:121) is of the view that *have* can function as the perfect auxiliary (modifying the head verb) or as the head verb itself. In the Verb Phrase above, *have* is not functioning as the perfect auxiliary because the constituents that follow it are not verbs. As the perfect auxiliary, *have* must precede another verb within a Verb Group (cf. Burton-Roberts, 1986:121). So, in the Verb Phrase above, *have*, in its present tense form, third person singular is functioning as the head of the Verb Group. The noun phrase *a right* serves as the complement of the verb *has*. This is then followed by numerous modifying constituents (mostly prepositional phrases) all of which serve to specify as well as to restrict the scope of application of the *right* that the *accounting officer has*.

Given the legal nature of the sentences in question, we argue that Mkhathshwa's (2005) approach would be relevant only to the extent of helping the reader identify the main idea. As argued by Good (2002:98) a chunk of words must always be serving some function in a sentence. If that chunk is not acting as a verb, a noun, or an adverb, then chances are good it's acting as an adjective. With specific reference to sentence (a), to start with, specification of the time frame as signaled by the adverbial indication of time, *as soon as*, is pertinent to the occurrence of the event as communicated in the main idea. Thus, it is asserted: *the developer may alienate units as soon as...* The expression, *as soon as*, therefore, is an embodiment of the time frame for the occurrence of the action and as such is adverbial in

character. The word *title* functions as an adjective in relation to the word *units* which in this particular instance is the object of the possible alienation process or event.

In sentence (b) the phrases *in these circumstances, of the body corporate, on behalf, of the sectional title owners,* are modifiers of their respective linguistic units. This is attested to by Good's (2002:112) assertion that phrases and clauses can enter our sentences and act as adverbs. The prepositional phrase '*in these circumstances*' is an instance of an adverb phrase acting adverbially in relation to the entire sentence. As asserted by Leech et al (1982:189) an initial adverbial typically has a scene-setting role for what follows. Thus it can be argued that the prepositional phrase *in these circumstances* as an adverbial modifies the whole predication. Put differently, the adverbial *in these circumstances*, coming early in the sentence, stresses the contrast between the *previous circumstances* and the *present circumstances* to which reference is being made. According to Burton-Roberts (1986:97) a very prominent characteristic of adverbials is that they can appear in all sorts of positions in the sentence, not just following the verb group and its complements. Similarly, Good (2002:100) argues that adverbs do have this ability to modify entire sentences. When they do, they are appropriately called sentence adverbs. And as an adverb the phrase '*in these circumstances*' is characterised by mobility as it can be moved from the initial position to the end of the sentence without changing the meaning of the sentence. Thus we can have the

sentence rewritten and have it as *the trustees of the body corporate are acting on behalf of the sectional title owners in these circumstances*. The mobility of adverbials, as is the case with the prepositional phrase in these circumstances, is attested to by Good's (2002:112) argument that adverbs are remarkably versatile. Not only do they modify verbs, adjectives, and adverbs, but they can modify entire clauses. Furthermore, when we decide where to put them in sentences, we find that they can move all over the place.

Notwithstanding the fact that the prepositional phrase 'in these circumstances' is acting adverbially in relation to the entire sentence, its positioning at the beginning of the sentence is arguably the writer's strategic device that he or she uses to foreground the theme or topic of the sentence. Our view in this regard is corroborated by McCarthy's (1991:52) argument that in English, what we decide to bring to the front of the clause (by whatever means) is a signal of what is to be understood as the framework within which what we want to say is to be understood. The rest of the clause can then be seen as transmitting what we want to say within this framework. Items brought to front-place in this way we shall call themes or topics of their clauses. The theme can be seen as the 'point of departure' of the message.

A cursory reading of the prepositional phrase *in these circumstances* would seem to differentiate the *circumstances* spoken about now with other circumstances that prevailed then. Our view in this regard derives from the fact that within the prepositional phrase *in these circumstances* the demonstrative pronoun *these* is inherently differential in character as it evokes in the mind of the reader the word *those* as its logical contrast. But the syntactic positioning of the word *these* in relation to the word *circumstances* which is a noun in its plural form changes its function from that of being a demonstrative pronoun to that of a *demonstrative adjective*. Our analysis in this regard is attested to by Good's (2002:134) assertion that we have four demonstrative pronouns in our language: *this* and *that* and their plurals *these* and *those*. When they replace a noun, they are called demonstrative pronouns. But they can also act as adjectives when they accompany a noun; they are then called *demonstrative adjectives*. As argued by Greenbaum and Quirk (1997:114) we cannot tell whether a word is an adjective by looking at it in isolation: the form does not necessarily indicate its syntactic function.

Thus in the context of our analysis of the sentences above, it can be asserted quite emphatically that although the syntactic categories noun phrase and verb phrase are the basic structures in the English language, many writers construct sentences using fronting devices as well as other syntactic categories which carry adjectival and adverbial information. Thus the left-most constituent is not always the

grammatical subject and it is frequently the case in declarative sentences that adverbs or adverbial phrases may precede the grammatical subject (Brown and Miller, 1991:131). Although Burton-Roberts (1986), Brown and Miller (1988), Hurford (1994) and Downing and Locke (2006) view modifiers as syntactically 'accessory' within their constructions, we nevertheless uphold the view that they are semantically significant given their contributory role in the semantics of the constructions. As a consequence, we argue, with specific reference to complex legal texts, that modifiers both within the nominal group and the verbal group are inherently significant in specifying more exactly what or who is being spoken about and also how, when, and under what circumstances the action in question is being or has been carried out. Thus the following provisions from the *Criminal Procedure Act 51/1977* are worth noting as instances that attest to the assertion that the necessary specification in legal texts is in the modifier. Notably, therefore, the analysis hereunder predicated on these said legal provisions, is not meant to be exhaustive as its brief is merely to extend and strengthen an already argued position with regard to the role of modifiers as providers of adjectival and adverbial information in legal texts.

- (a) Any person who is lawfully in charge or occupation of any premises and who reasonably suspects that stolen stock or produce, as defined in any law relating to the theft of stock or produce, is on or in the premises concerned, or that any article has been placed thereon or therein or is in the custody or possession of any person upon or in such premises in contravention of any law relating to intoxicating liquor, dependence-producing drugs, arms and ammunition or explosives, may at any time, if a police official is not readily available, enter such premises for the purpose of searching such premises and any person thereon or therein, and if such stock,



produce or article is found, he shall take possession thereof and forthwith deliver it to a police official.

(a1) *Any person may enter premises.*

In terms of our analysis, sentence (a1) above, *any person may enter premises*, constitutes the basic clause which comprises the subject noun phrase *any person* and the predicate verb phrase *may enter premises*. It is worth noting Wardhaugh's (1995:70) argument that the clause is the smallest syntactic unit that is capable of being used completely independently in a language. As argued by Wardhaugh (1995:70), a clause is a construction that has a noun phrase which is called a subject followed by a verb phrase which is called a predicate.

The composition of the basic clause, *any person may enter premises* (which is an extraction from the original sentence), in our view, fails to realize the communicative intent of the addresser in that it does not restrict the reference of the person permitted to enter premises as intended by the addresser. Notably, in the original construction of the sentence, the subject noun phrase with all its modifying elements inextricably attached to the subject noun phrase narrows down the scope of the reference *any person*. This narrowing down of the reference is achieved through the use of the restrictive relative clause(s) - *who is lawfully in charge or occupation*

*of any premises and who reasonably suspects that stolen stock or produce is on or in the premises concerned.*

As argued by Wardhaugh (1995:108) a restrictive relative clause may not be omitted from a sentence without bringing about a drastic shift in the meaning of that sentence. In contradistinction to the role played by the restrictive relative clause, the non-restrictive relative clause merely provides additional non-essential information whose omission results in no such drastic change of meaning (cf. Wardhaugh, 1995:108). This view is corroborated by Verspoor et al's (1997) assertion that a postmodifier may be restrictive or non-restrictive, depending on whether or not it is needed to identify the noun phrase (147).

Even the predication, *may enter premises*, is misleading in the sense that it makes allowance for indiscriminate entry into the premises which is something not contemplated in the original construction of the sentence. Without the modifying prepositional phrases *for the purpose* and *of searching* respectively, the grounds on which the entry is sanctioned are obscured. But in the original construction of the sentence, the presence of these prepositional phrases prevents speculation with regard to the reasons for allowing entry into the said premises. The last part of the original

sentence imposes an obligation with regard to what should happen once the object of the search, in particular, has been accomplished by way of recovering the stock or, produce or article reported to have been stolen.

- (b) Where a police official in the investigation of an offence or alleged offence reasonably suspects that a person who may furnish information with reference to any such offence is on any premises, such police official may without warrant enter such premises for the purpose of interrogating such person and obtaining a statement from him: Provided that such police official shall not enter any private dwelling without the consent of the occupier thereof.

(b1) An official may enter premises.

In the original sentence (b) the *investigation of an offence* must have been prompted by a suspicion described as reasonable. Moreover, this suspicion must relate to a particular person, namely, the one who may furnish information with reference to *the offence or alleged offence*. Even the information to be furnished is specified by the compound prepositional phrase *with reference to*.

In the imaginary sentence (b1) the adverbial information describing the circumstances that would justify an official's entry into premises is missing. Thus in the imaginary sentence there are no restrictions attached to *an official's entry into premises*. We argue that although we are not obliged, syntactically speaking, by the grammatical and lexical structure of English to give this circumstantial information (cf. Lyons, 1983), its contributory role in

the semantics of the sentence is, arguably, essential in restricting the meaning of the Head both within the nominal group and the verbal group (cf. Daniels and Daniels, 1991).

- (c) If at criminal proceedings at which an accused is charged with receiving stolen property which he knew to be stolen property, it is proved that such property was found in the possession of the accused, evidence may at any stage of the proceedings be given that the accused was, within the five years immediately preceding the date on which he first appeared in a magistrate's court in respect of such charge, convicted of an offence involving fraud or dishonesty, and such evidence may be taken into consideration for the purpose of proving that the accused knew that the property found in his possession was stolen property: Provided that not less than three day's notice in writing shall be given to the accused that it is intended to adduce evidence of such previous conviction.

(c1) Evidence may be given.

- (d) When an accused appears in a magistrate's court and the alleged offence may be tried by a superior court only or is of such a nature or magnitude that it merits punishment in excess of the jurisdiction of a magistrate's court, the prosecutor may, notwithstanding the provisions of section 75, on the instructions of the attorney-general, whether in general or in any particular case, put the charge, as well as any other charge which shall, in terms of section 82, be disposed of in a superior court, to the accused in the magistrate's court, and the accused shall, subject to the provisions of sections 77 and 85, be required by the magistrate to plead thereto forthwith.

(d1) The prosecutor may put the charge.

In the imaginary sentence (d1) the circumstances prompting the granting of permission as indicated from the use of the modal verb may are not spelt out.

Although this imaginary sentence is syntactically well constructed, it is, however, wanting semantically as it needs a specific situational context to allow the reader attach meaning to it as a communicative device. Thus we argue that the use of adjectival and adverbial information in the construction of sentences is to be

accorded its due recognition as a technique that renders the sentence communicatively effective.

Although our focus is on legal texts, the following sentences extracted from a Psychology textbook by Feldman (2007) are also worth noting as they corroborate our argument that both adjectival and adverbial information play significant roles in enhancing clarity and precision of the expression as mediated by the text.

(a) Finally, punishment does not convey any information about what an alternative, or appropriate behaviour might be.

(a1) Punishment does not convey information.

As evident in a1 above, the following linguistic structures are not part of the nucleus of the sentence: the adverb *finally*, which is semantically classified as enumerative and denotes a cataloguing or inventory of what is being said (cf. Greenbaum, 1969:35).

(b) To be useful in bringing about more desirable behaviour in the future, punishment must be accompanied by specific information about the behaviour that is being punished, along with specific suggestions concerning a more desirable behaviour.

(b1) Punishment must be accompanied by information.

Rewriting sentence (b) above with the subject noun phrase occupying the initial position would yield the imaginary sentence: Punishment must be accompanied by specific information about the behaviour that is being punished, along with specific suggestions concerning a more desirable behaviour to be useful in bringing about

more desirable behaviour in the future. In the imaginary sentence (b1) the following modifying elements are absent:

- (i) about the behaviour - adjectival prepositional phrase modifying the noun information.
- (ii) along with - adverb phrase denoting *in addition to*.
- (iii) concerning - marginal preposition attaching the noun *suggestions* to the object of the preposition which is the object noun phrase *a more desirable behaviour*.
- (iv) to be useful - infinitive phrase denoting goal.

We argue, therefore, that the reason or purpose for the accompaniment of punishment by information is to ensure that the punishment meted out could *be useful in bringing about more desirable behaviour in the future*.

(c) An employee who is reprimanded by the boss may quit; a teenager who loses the use of the family car may borrow a friend's car instead.

(c1) An employee may quit; a teenager may borrow a friend's car.

According to Palmer (1987:122) the modal verb *may* is the marker of epistemic possibility. Used in an epistemic sense, therefore, the modal verb *may* is concerned with the speaker's knowledge or belief about the proposition that is being conveyed in the utterance (cf. Wardhaugh, 1995:53). Similarly, Huddleston and Pullum (2005:54) argue that epistemic modality expresses meanings relating primarily to what is necessary or possible given what we know or believe. And as observed by Hasan (1990:60) the modals act upon the reference of the verbal groups in which they occur, taking it to the realm of the possible, probable, or necessary. So, together with the other verbs in the verb phrase, the modal auxiliary *may* forms a

subjunctive mood. As argued by Verspoor et al (1997:55) a subjunctive mood expresses that an event is not seen as really having taken place, but as a possible, potential, or hypothetical event.

We argue, therefore, that in the context of the sentences *an employee may quit* and *a teenager may borrow a friend's car* respectively, the modal verb *may* in each instance is used as the marker of epistemic possibility. But it is not just any employee that *may quit* or any teenager that *may borrow a friend's car*; it is the employee as defined by the restrictive relative clause *who is reprimanded by the boss* and the teenager as defined by the restrictive relative clause *who loses the use of the family car*. Thus, without the restrictive relative clauses in each imaginary sentence, the function of the head nominal is best articulated by Huddleston and Pullum's (2005) assertion that the head nominal describes a unique entity, but at the moment when you hear that nominal you know very little about it. As a consequence thereof, the predicate of the clause then goes on to give a fuller identification of it.

To use Good's (2002:141) terms, the restrictive relative clauses in the imaginary sentences are defining in character, hence their being designated defining relative clauses. As argued by Good (2002:141) a defining relative clause is one that identifies the person or thing meant by delimiting the denotation of the antecedent. Notably, the relative clause(s) *who is reprimanded by the boss* and *who*

*loses the use of the family car* are *Dependents* of their *Heads* *employee* and *teenager* respectively. As argued by Daniels and Daniels (1991:20) often modifiers of various sorts expand the basic sentence patterns and make them more interesting and as such these modifiers make words more specific by describing or limiting them in some way (Daniels and Daniels:1991:168). Thus, semantically, the Head is the characterizing participant in a construction while the Dependent plays a contributory role in the semantics, restricting the meaning of the Head in one way or another.

- (d) A father who yells at and hits his son for misbehaving teaches the son that aggression is an appropriate, adult response.
- (d1) A father teaches the son.

In the imaginary sentence (d1) we are misled into believing that a father in general, that is, any male person (an adult of course) whose relationship to another male person is that of a father, teaches the son whatever needs to be taught. By contrast, therefore, a mother teaches the daughter. But the original sentence (d) delimits the denotation of the reference. Thus, the father talked about is the one as defined by the restrictive relative clause *who yells at and hits his son for misbehaving*. Within the verbal group, the *that*-clause, *that aggression is an appropriate, adult response*, serves as the complement of the lexical verb *teaches*. We therefore uphold the view that although syntactically modifiers are optional



within their constructions, their use in such constructions is semantically significant.

- (e) In addition, physical punishment is often administered by people who are themselves angry or enraged.
- (e1) Punishment is administered.

The adverbial *in addition* indicates continuity with an earlier assertion thus reinforcing what has been said earlier on. In sentence (e1) the subject noun phrase *punishment* is devoid of the clarity and precision which is inherent in the subject noun phrase *physical punishment* which is an instance of a complex noun phrase comprising the simple subject *punishment* and the complete subject *physical punishment*. The said clarity and precision derives from the use of the adjective *physical* which describes the kind of punishment that is talked about. Within the verbal group in sentence (e) the adverb *often* is used as the time frequency adjunct and refers to the frequency of the *administering of punishment*. The prepositional phrase *by people* gives us information pertaining to the agents of the act of administering the said punishment.

Notably, it is not just people executing the administering of the punishment, but it is people as defined by the restrictive relative clause *who are themselves angry or enraged*. Comparatively speaking, therefore, the communicative potential of

sentence (e) in relation to the communicative potential of sentence (e1) is enhanced by the presence of both adjectival information provided by the adjective *physical* and adverbial information provided by the adverb *often*, the prepositional phrase *by people* and the restrictive relative clause *who are themselves angry or enraged* in the construction of sentence (e).

(f) Unless we teach her appropriate ways to respond, we have merely managed to substitute one undesirable behaviour for another.

(f1) We have managed to substitute.

In the imaginary sentence *we have managed to substitute* the word *have* is a marker of the perfect aspect. As argued by Rippon (1979:10) the perfect aspect tells us that the action is completed by inserting a different word such as *has, have, had* resulting in a different change in the form of the verb such that *manage* becomes *managed*. Without the conditional subordinate clause *unless we teach her appropriate ways to respond* the meaning of the imaginary sentence *we have managed* misrepresents the communicative intent of the addresser as reflected in the original sentence (f) which is inclusive of both the subordinate clause and the independent clause.

Hasan (1990:61) argues that when a subordinate clause is a conditional - that is, encodes a condition under which something would or would not happen - then its

verbal group, even if finite, does not refer to actual time. Moreover, clauses related to it as conditioned - that is, encoding that which depends upon the condition - are prevented from referring to other than imaginary time, meaning that the time has not actualized. Again, the introduction of the adverb *merely* within the structure of the verbal group also modifies the meaning of the lexical verb *managed*. The infinitive clause *to substitute one undesirable behaviour for another* serves as the complement of the lexical verb *managed*.

Notably, within the verbal group the internal structure of the infinitive clause is itself further modified. Thus, we have the infinitive phrase *to substitute* modified by the noun phrase *one undesirable behaviour* in which the noun *behaviour* is modified by the prepositional phrase *for another*. We argue, therefore, that with the modifying elements, clarity and precision of the expression as mediated by the text is achieved.

#### **Summary:**

In this chapter, we probed into the internal structure of both the nominal group and the verbal group to determine how the linguistic units, be they single words, phrases or clauses, relate to one another within each sentence and what functional role they play within these constituent groups. Although modifiers are syntactically 'accessory' within their constructions, we nevertheless established that they are semantically significant given their contributory role in the semantics

of the constructions. As a consequence, we argue, with specific reference to complex legal texts, that modifiers both within the nominal group and the verbal group are inherently significant in specifying more exactly what or who is being spoken about and also how, when, and under what circumstances the action in question is being or has been carried out.

## Chapter Three

### Research Methodology

#### Data Analysis

##### Method: Content analysis

In this study, we opted for the content analysis as the sole methodology for use in dealing with the corpus of the material we gathered for investigation. As defined by Leedy and Ormrod (2005:108) a content analysis is a detailed and systematic examination of the contents of a particular body of material, for the purpose of identifying patterns, themes, or biases within that material. The corpus of the material chosen for analysis, as already indicated above, is derived from the statutes of the University of Zululand and Swaziland respectively. The rationale for using statutes derived from different countries was prompted by our desire to have a representative sample that would reflect the kinds of writing trends that are put to use in the construction of legal texts in situations where issues of legality are the focal point of the texts in question.

Since content analysis is quite systematic, measures were taken to make the process of analysis as objective as possible. Thus, the following typical steps were taken:

- (a) We identified the specific body of material to be studied. And given the fact that the body of material is quite large, it could only be read but not analysed in its entirety. Hence a sample was selected;

- (b) We identified the characteristics or qualities to be examined in precise, concrete terms. Specific examples of each characteristic were identified as a way of defining it more clearly;
- (c) Since the material involved complex or lengthy items, we broke down each item into small, manageable segments that are analysed separately and
- (d) We scrutinized the material for instances of each characteristic or quality defined in step (b).

### **Data collection**

Our endeavour to collect relevant data for the study was not without constraints. Initially, we planned to visit the High Courts in Cape Town and Bloemfontein with the purpose of collecting data by means of interviews. This plan of action could not be executed as planned due to the occurrence of a number of unforeseen events whose mentioning is, in our view, not desirable given the nature and scope of our investigation in this study. As a consequence thereof, we decided to reschedule the appointments we had sought to secure with the interviewees at the High Courts in Cape Town and Bloemfontein respectively. It should also be noted that these trips were to be undertaken during the December holidays but this proved to be an inconvenient time to secure appointments with any would-be interviewees.

Thus, with the first plan having failed and upon deciding to adopt a content analysis approach in analysing the data to be collected, we then resolved to undertake trips

to Swaziland and Mozambique with the purpose of securing legal documents written in English. In Maputo, Mozambique, language was a barrier in our attempts to secure the Statutes of Edward Mondlana University, given the fact that we cannot speak Portuguese, as this is the official language used for all matters of national concern. Notwithstanding our knowing that the official language in Mozambique is Portuguese, we had hoped that English, as the language of power, would surely feature as one of the functional languages especially within the academic domain as well as in other government institutions. But, to our dismay, it later turned out that we were mistaken in this regard.

It was to our consolation though that the trip to Swaziland was fruitful in that we managed to secure the sought after Statutes of the University of Swaziland. Inevitably, therefore, and with the acquisition of the Statutes of the University of Swaziland, the Statutes of the University of Zululand became our closest alternative choice to the unavailable Statutes of Edward Mondlana University in Maputo, Mozambique. Our choice of Swaziland and Mozambique was largely informed by our assumption that English, as an international, is one of the official languages in which official documents such as statutes are written. We also wanted to establish whether countries that use English as a second or foreign language do employ common linguistic structures in the construction of their respective statutes. It needs mentioning, therefore, that our having been exposed to legal

documents in recent years helped us identify the specific body of material to be studied. In Leedy and Ormrod's (2005:144) view, common to all qualitative studies is a need to identify an appropriate *sample* from which to acquire data - which is defined by Leedy and Ormrod (2005:88) as those pieces of information that any situation gives to an observer. Thus, the statutes of the Universities of Swaziland and Zululand respectively were identified as representative material in this regard.

Notably, our method of data collection and selection was largely informed by the view that if one wants to draw inferences about an entire population or body of objects, then one must choose a sample that can be presumed to *represent* that population or body (cf. Leedy and Ormrod, 2005:145). Again, it is to be noted that more often, qualitative researchers are intentionally nonrandom in their selection of data sources. Instead, their sampling is purposeful: They select those individuals or objects that will yield the most information about the topic under investigation (cf. Leedy and Ormrod, 2005:245). It needs, therefore, to be stated unequivocally that we were intentionally nonrandom in our selection of the data sources. Our advocacy of this non-random selection of the data source finds supports in Cooper et al's (2003) assertion that the way in which a sample is constructed is a key element in the research process, since the sample must mirror the population from which it is taken. The findings based on the sample, so argue Cooper et al, will be valid for the population as a whole (cf. Cooper et al, 2003:103, 3<sup>rd</sup> ed.). Our resolve to sample the corpus of the material under consideration in



the manner in which we sampled it, also derives support from Leedy and Ormrod's (2005) argument that,

To behold is to look beyond the fact; to observe, to go beyond the observation. Look at the world of people, and you will be overwhelmed by what you see. But select from that mass of humanity a well-chosen few, and observe them with insight, and they will tell you more than all the multitudes together (179).

Leedy and Ormrod's (2005) argument is somewhat corroborated by Brune's (1990:104) assertion that,

Research in anything will yield findings that mirror its procedures for observing or measuring. Science always invents a conforming reality in just that way. When we confirm our theory by observations, we devise procedures that will favour the theory's plausibility. Anyone who objects can poach on our theory by devising variants of our own procedures to demonstrate exceptions and disproofs.

### **The nature and role of the data**

The data presented in chapters four and six respectively constitute the primary data which, in Leedy and Ormrod's (2005:89) terms, are the most valid, the most illuminating and the most truth-revealing. According to Leedy and Ormrod (2005:89) data are not only elusive but also transient. Therefore, the data that the researcher is permitted to glimpse may exist for only a split second. As a consequence thereof, researchers must recognize that even the most carefully collected data may have an elusive quality about them and that, at a later point in time, they may have no counterpart in reality whatsoever (cf. Leedy and Ormrod, 2005:89). Contrary to what is asserted above, the data gathered from the statutes of the Universities of Zululand and Swaziland respectively, are presented as having the status of permanence. This is so in spite of the amendments which

are more often than not likely to be introduced from time to time, as these amendments do not significantly alter the central tenet of the statutory provisions in their entirety.

### **The admissibility of the data**

As argued by Leedy and Ormrod (2005:91), not all data that come to the researcher's attention are acceptable for use in a research project as data can be defective. Thus, if the data are defective, they may affect the validity of the researcher's conclusions. In this study, therefore, we advocate the axiom that any research effort should be replicable; that is, should be able to be repeated by any other researcher at any other time under precisely the same conditions (cf. Leedy and Ormrod, 2005:91). Thus, in the context of this study, the replicability of the research effort as carried out by us would, in our view, be rendered feasible given the fact that the data that we have gathered are transmitted through the written mode which can be accessed by anyone as and when it (the material) is needed. This is reminiscent of Hasan's (1990) assertion that if the analysis of an individual work is such that it transcends that specific work, its principles would be 'exportable'; they would be applicable to all instances, those already in existence and those yet to come (90).

In this chapter, therefore, the following sub-topics have been discussed: the method chosen for data analysis, data collection, the nature and the role of the

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In this chapter, therefore, the following sub-topics have been discussed: the method chosen for data analysis, data collection, the nature and the role of the

data, and the admissibility of the data. Now, following in the next chapter, is an exposition and analysis of the statute of the University of Zululand as representative data for testing the tenability of the hypotheses of the study. Thus in chapter four, the exposition and analysis focus on the use of the following linguistic structures which have been identified as extensively used in the composition of the statutes under consideration:

- (a) Adverbial clauses of condition introduced by the subordinator *if* (positive condition).
- (b) Adverbial clauses of condition introduced by the subordinator *unless* (negative condition).
- (c) Adverbial clauses of time introduced by the subordinators *while, as soon as, when, whenever, until, after* and *before*.
- (d) Adjectival relative clauses introduced by the relative pronouns *who, which* and *whose*.

In chapter five the exposition and analysis based on the statute of the University of Swaziland focus on the use of the following language structures:

- (a) Existential sentences
- (b) Prepositional phrases.
- (c) Adjectival relative clauses.
- (d) Adverbial clauses.
- (e) The modal verb *shall* (signifying a duty or an obligation).

## Chapter Four

### Exposition and Data Analysis (1)

If we are describing an action in English, we may tell our interlocutor, not only who did what to whom (or what), but also when, how or why he did it. Generally speaking, however, we are not obliged by the grammatical and lexical structure of English to give this circumstantial information. These circumstances are normally referred to by means of syntactically optional adverbs or adverbials (Lyons, 1983:497).

Very often declarative clauses with deontic meanings of modals are used to try and influence what happens rather than simply to make assertions (Huddleston and Pullum, 2005:54-5).

The origin of deontic modality is to be sought in the desirative and instrumental function of language: that is to say, in the use of language, on the one hand, to express or indicate wants and desires and, on the other, to get things done by imposing one's will on other agents (Lyons, 1983:826).

In this chapter the focus of the analysis will be on the use of subordinate clauses and modality within sentences whose construction typifies the desirative and instrumental function of language within the context of legal writing. As argued by Flower and Sitko (1989:572) the three kinds of subordinate clauses are adverb clauses, adjective clauses, and noun clauses. Given the predominant use of the first two kinds of clauses, namely, adverb clauses and adjective clauses and the apparent absence of noun clauses in the text under discussion, the discussion will, therefore, be confined to the analysis of the use of adverb clauses and adjective clauses in legal texts. Flower and Sitko (1989) define an adverb clause as a subordinate clause that is used as an adverb to modify a verb, an adjective, or an adverb. Notably, most adverb clauses begin with subordinating conjunctions. A

subordinating conjunction relates an adverb clause to the word it modifies and establishes a specific relationship between the clauses in the sentence (Flower and Sitko, 1989:575). Thus, the frequently used subordinating conjunctions as outlined by Flower and Sitko (1989:575) are shown below.

<b>Time:</b>	as , as soon as, after, before, since, until, when, whenever, while
<b>Cause:</b>	because, since
<b>Comparison:</b>	as, as much as, than
<b>Condition:</b>	if, although, as long as, though, unless, provided that
<b>Purpose:</b>	so that, in order that
<b>Manner:</b>	as, as if, as though
<b>Place:</b>	where, wherever

Syntactically, subordinating conjunctions introduce or subordinate dependent clauses which might be adjectival or adverbial. It is worth noting, therefore, that adverb clauses answer the questions: where? When? How? Why? To what extent? and Under what circumstances? (cf. Flower and Sitko, 1989:576). Good (2002:110) argues that a dependent clause might show when, where, why, or under what circumstance a verbal activity takes place. So, our approach in analysing the statutory sentences as they obtain in the statutes of the two universities under study, is informed by Aarts and Aarts' (1988) assertion that sentences can be described by specifying the functions that their constituents have in sentence

structure and the categories to which their constituents belong. A sentence which expresses a condition usually starts with words that indicate the speculative nature of the message. Such sentences have a very special place in law studies (van der Walt and Nienaber, 2002:77). Similarly, Quirk and Greenbaum (1997:324) argue that finite adverbial clauses of condition are introduced chiefly by the subordinators *if* (positive condition) and *unless* (negative condition). As argued by Quirk and Greenbaum (1997) conditional clauses state the dependence of one circumstance or set of circumstances on another (323) and they tend to assume initial position in the superordinate clause (324). Notably, the conditional clauses reproduced hereunder are all instances of subordinate or dependent clauses which characteristically act adverbially in relation to the main clause. The following sentences, therefore, illustrate the use of adverbial clauses of condition introduced by the subordinator *if* (positive condition) in the context of legal writing aimed at achieving specific communicative objective:

- (a) If the office of chancellor becomes vacant for any reason other than effluxion of time, the Council must as soon as possible, elect a new chancellor in accordance with the provisions of paragraph 4.
- (a1) **The Council must as soon as possible, elect a new chancellor in accordance with the provisions of paragraph 4** if the office of chancellor becomes vacant for any reason other than effluxion of time.
- (a2) **The Council must as soon as possible, elect a new chancellor in accordance with the provisions of paragraph 4.**
- (a3) **The Council must elect a chancellor.**

In sentence (a2), the absence of the adverbial clause of condition, makes it impossible for the reader to know the circumstances that must prevail to make possible the election of a new chancellor as contemplated in the statutory provisions. In sentence (a3), the absence of the adverbial clause of time, *as soon as possible*, and the prepositional phrases *in accordance with the provisions of paragraph 4* respectively deprives the reader information with regard to when and how the contemplated action is to be executed.

It is also noticeable that the absence of the adjective *new* as a modifier of the chancellor in question, obscures the fact that the chancellor to be appointed would be filling up a vacancy that has (or would have) become vacant. We argue, therefore, that sentence (a3) as a typical nucleus sentence corroborates the view that we are not obliged by the grammatical and lexical structure of English to give circumstantial information (Lyons, 1983:497).

- (b) If there is no candidate with an absolute majority, voting must be repeated until a candidate emerges with an absolute majority.
- (b1) **Voting must be repeated until a candidate emerges with an absolute majority if there is no candidate with an absolute majority.**
- (b2) **Voting must be repeated until a candidate emerges with an absolute majority.**
- (b3) Voting must be repeated.



In sentence (b2) the absence of the conditional circumstance of the verbal activity contemplated in the nucleus of the sentence compromises the communicative potential of the sentence. The duration of the voting is signaled by the adverbial clause of time *until a candidate emerges with an absolute majority*. The prepositional phrase *with an absolute majority* is indicative of the result envisaged by repeating the voting. Sentence (b3) as it stands is devoid of the communicative potential exhibited by sentence (b1) and (b2) respectively. We argue, therefore, that the communicative potential ascribed to sentence (b1) and (b2) derives from the use of the linguistic devices that flesh out the sentence and thus provide information that is essential for our understanding of the task(s) to be executed.

- (c) If more than one candidate is nominated for one of the offices, voting is by secret ballot.
- (c1) **Voting is by secret ballot** if more than one candidate is nominated for one of the offices.
- (c2) **Voting is by secret ballot.**
- (c3) **Voting is by ballot.**

Sentence (c2) presupposes that the holding of voting by secret ballot derives from the prevailing circumstance contemplated in sentence (c1). In sentence (c2) the holding of voting by secret ballot is stated as a fact that exists independently of the circumstance contemplated in sentence (c1). Rewriting sentence (c2) to yield sentence (c3) without the attributive adjective *secret*, results in the sentence failing to reveal the nature of the ballot that is in use.

- (d) If no candidate receives a majority of votes, successive rounds of voting are held.
- (d1) **Successive rounds of voting are held** if no candidate receives a majority of votes.
- (d2) **Successive rounds of voting are held.**
- (d3) **Rounds are held.**

Without the adjective *successive* and the prepositional phrase *of voting* as premodifier and postmodifier respectively, it is impossible to know what rounds are being talked about. Thus the use of the adjective *successive* in the attributive position is meant to denote some quality or property of the noun *rounds* constituting the subject noun phrase. We argue, therefore, that the modification of the noun *rounds* instantiated by the adjective *successive* and the prepositional phrase *of voting* is crucial to our understanding of the kind of voting that would be conducted, should the envisaged circumstance become a reality.

- (e) If the chairman is absent from any meeting of the Council, the vice-chairman must preside at such meeting.
- (e1) **The vice-chairman must preside at any meeting** if the chairman is absent from such meeting of the Council.
- (e2) **The vice-chairman must preside at any meeting.**
- (e3) **The vice-chairman must preside.**

The vice-chairman's act of presiding is presented as having to be executed without delimiting the scope and nature of the power bestowed upon him. Taking this sentence as it stands in (e3) suggests that the chairman, irrespective of whether

he is present or absent will have to conceive of the act of presiding as a prerogative bestowed upon him.

- (f) If a member of the Council without the permission of the Council participates in the proceedings of the Council in connection with the matter in which the member does have a direct or indirect pecuniary, financial or other material interest, voting by members of the Council is invalid.
- (f1) **Voting by members of the Council is invalid** if a member of the Council, without the permission of the Council participates in the proceedings of the Council in connection with the matter in which the member does have direct or indirect pecuniary, financial or other material interest.
- (f2) **Voting by members of the Council is invalid.**
- (f3) **Voting is invalid.**

Sentence (f3) conceives of voting as an unfruitful exercise given its declared invalidity. The construction of the sentence without the modifying elements yields a sentence which is incapable of conveying the same kind of message that could have been communicated had the modifying elements been used. Using the prepositional phrases *by members* and *of the Council* respectively renders the expression more clear and precise as we get to know that the voting referred to is *by members of the Council*. This expression *by members of the Council* excludes other individuals who are not members of the Council. We argue, therefore, that the invalidity of the voting referred to is applicable only to members of the Council and the circumstance that should be prevailing at the time when the said voting is declared invalid is the participation of a member of the Council without the

permission of the Council in the proceedings of the Council in connection with the matter in which the member does have a direct or indirect pecuniary, financial or other material interest.

- (g) If the number of persons nominated does not exceed the number of vacancies, the persons so nominated must be considered duly elected and the secretary to the convocation must announce the names of the members.
- (g1) The persons nominated must be considered duly elected and the secretary to the convocation must announce the names of the members if the number of persons so nominated does not exceed the number of vacancies.
- (g2) The persons nominated must be considered duly elected and the secretary to the convocation must announce the names of the members.
- (g3) The persons must be considered elected and the secretary must announce the names.

In sentence (g2) the word *nominated* functions as a postmodifier to the noun phrase *the persons*. Using the postmodifier *nominated* helps us characterize the subject talked about, namely, *the persons*. Functioning as it does, therefore, the word *nominated* provides adjectival information which is necessary for the identification of the persons talked about. Thus, our concern is not with the persons in general but is with the persons who have been *nominated*. Notably, our act of considering the *nominated* persons elected is not completed unless we construe the nomination as constituting a legitimate due process within the parameters of the statutory provisions.

- (h) If a vacancy occurs, the secretary to the institutional forum must request the constituency concerned to elect a replacement to hold office for the remainder of the term.
- (h1) The secretary to the institutional forum must request the constituency concerned to elect a replacement to hold office for the remainder of the term if a vacancy occurs.
- (h2) The secretary to the institutional forum must request the constituency concerned to elect a replacement to hold office for the remainder of the term.
- (h3) The secretary must request the constituency.

In sentence (h2) the prepositional phrase *to the institutional forum*, specifies to whom the referent of the subject noun phrase is *secretary*. But in (h3) the absence of this particular prepositional phrase obscures the beneficiary of the services rendered by the *secretary* in question. Thus, in sentence (h3), without the adjectival prepositional phrase *to the institutional forum*, we cannot identify the beneficiary of the secretary's services.

According to Soars and Soars (2003:145) it is important to understand the difference between sentences that express real possibilities, and those that express unreal situations. Hence Soars and Soars (2003) identify two types of conditional, namely, First Conditional and Second Conditional. Notably, first conditional sentences express a possible condition and its probable result in the future, whereas the second conditional sentence is used to express an unreal situation and its probable result. The situation or condition is improbable, impossible, imaginary, or contrary to known facts (cf. Soars and Soars, 2003:145). We argue that in the context of legal writing where language is used, on the one

hand, to express or indicate wants and desires and, on the other hand, to get things done by imposing one's will on other agents (cf. Lyons, 1983:826), sentences are constructed in a way that is indicative of the communicative intent, which is to express real possibilities (cf. Soars and Soars, 2003). Thus, the conditional clauses in the sentences above best exemplify Quirk and Greenbaum's (1997) argument that conditional clauses state the dependence of one circumstance or set of circumstances on another. It is also noticeable that all these sentences are, in Soars and Soars' (2003:145) terms, first conditional sentences which express a possible condition and its probable result in the future. Thus, we argue that in sentence (a) the obligation imposed on the Council to elect a new chancellor depends on the office of the chancellor becoming vacant for any reason other than the effluxion of time. The time frame within which this election must take place is unequivocally specified by the adverbial *as soon as possible*. Again, the manner in which this election is to be executed is specified, that is, *in accordance with the provisions of paragraph 4*.

In sentence (b) the obligation to repeat *voting* depends on there being no candidate with an absolute majority. The duration of the repetition of the voting is signaled by the adverbial clause of time *until a candidate emerges with an absolute majority*. In sentence (c) for voting to be held by means of secret ballot, the circumstance that must prevail at the time of voting is the nomination of more than one

candidate for one of the offices. In sentence (d) the holding of *successive rounds of voting* depends on there being no candidate receiving a majority of votes. The presiding of the vice-chairman as an obligation at any meeting in sentence (e) depends on the chairman's absence from such meeting of the Council. In (f) the invalidity of voting by members of the Council is ascribed to the participation of a member of the Council without the permission of the Council in the proceedings of the Council in connection with the matter in which the member does have a direct or indirect pecuniary, financial or other material interest.

In sentence (g) the obligation to consider the persons nominated duly elected and the obligation on the secretary to the convocation to announce the names of the members depend on the number of persons so nominated not exceeding the number of vacancies. In sentence (h) the occurrence of a vacancy imposes an obligation on the secretary to the institutional forum to request the constituency concerned to elect a replacement to hold office for the remainder of the term.

On the basis of our analysis above, we can infer, in Lyons' (1983:823) terms that,

When we impose upon someone the obligation to perform or to refrain from performing a particular act, we are clearly not describing either his present or future performance of that act. There is a sense in which the sentence we utter can be said to express a proposition; but it is not a proposition which describes the act itself. What it describes is the state-of-affairs that will obtain if the act in question is performed (Lyons, 1983:823).

Thus, in sentence (a) the anticipated act is the office of the chancellor becoming vacant and the state-of-affairs that will obtain is the obligation on the part of the Council to elect a new chancellor. Notably, not only is an obligation imposed for the election of a new chancellor, but the following injunctions in respect of the time frame signaled by *as soon as possible* and compliance with standing provisions as signaled by *in accordance with* are also to be strictly observed in the execution of the obligation in question.

In sentence (b) the anticipated act is the repetition of voting. The state-of-affairs that must eventually obtain is the emergence of a candidate with an absolute majority. The envisaged result of the voting process is signaled by the adverbial clause *until a candidate emerges with an absolute majority*. In sentence (c) the manner in which the voting is conducted is predetermined and this is signaled by the expression, *it is by secret ballot*. The condition that must prevail for this to happen is that one candidate would have been nominated for one of the offices. In the sentence *voting is by secret ballot* the word *is*, is not used as an auxiliary verb but assumes the role of the head verb.

In sentence (d) the anticipated act is the holding of successive rounds of voting which depends on there being no candidate receiving a majority of votes. In sentence (e) the anticipated presiding of the vice-chairman at any meeting depends



on the chairman's absence from such meeting of the Council. In sentence (f) for the voting by the members of the Council to be declared invalid the circumstance that must prevail at the time of voting is the participation of a member of the Council without the permission of the Council in a matter in which he or she has a direct or indirect pecuniary, financial or other material interest. The two prepositional phrases *without the permission* and *of the Council* are crucial in rendering the voting process invalid.

The following sentences illustrate the use of adverbial clauses of condition introduced by the subordinator *unless* (negative condition).

- (a) A member of the council, other than a member contemplated in subparagraph (2) (a), (b), (c), and (g), holds office for a period of four years **unless he or she submits his or her resignation in writing to the council or vacates his or her office for any other reason before the expiry of such period.**
- (a1) A member of the council, other than a member contemplated in subparagraphs (2) (a), (b), (c), and (g), holds office for a period of four years.
- (b) No member of the council may participate in the discussion of, or vote on a matter in which he or she has a direct or indirect pecuniary, financial interest, **unless he or she first discloses the extent of his or her interest and obtains the permission of the meeting to participate in the discussion or vote on the matter or both.**
- (b1) No member of the council may participate in the discussion of, or vote on a matter in which he or she has a direct or indirect pecuniary, financial interest.
- (c) The ruling of the chairperson on a point of order or procedure is binding **unless immediately challenged by a member, in which event such ruling must be submitted without discussion to the meeting and the decision of the meeting is final.**
- (c1) The ruling of the chairperson on a point of order or procedure is binding.

- (d) No person may be elected unless he or she has been nominated in writing by two members and he or she has confirmed by his or her signature that he or she accepts the nomination.
- (d1) No person may be elected.
- (e) No person must be admitted to a degree or diploma, other than an honorary degree, unless the senate certifies that such person has satisfied all the requirements prescribed for such degree or diploma.
- (e1) No person must be admitted to a degree or diploma, other than an honorary degree.
- (f) A student for an honours bachelor's degree must not be admitted to an examination in any subject unless he or she has submitted a certificate, to the satisfaction of the senate, for the lecturers in such subject to the effect that he or she has attained a satisfactory standard proficiency in his or her work in such subject.
- (f1) A student for an honours bachelor's degree must not be admitted to an examination in any subject.
- (g) A candidate for the degree of master or doctor must not be admitted to the examination unless he or she has submitted a certificate, to the satisfaction of the senate from his or her promoter to the effect that he or she has satisfactorily prepared himself or herself for such examination by attendance of the classes, and the due performance of his or her work, or that he or she, instead of attending classes, has satisfactorily performed such other work as may have been approved by the senate.
- (g1) A candidate for the degree of master or doctor must not be admitted to the examination.

Following now are statutory sentences which exemplify the use of adverbial clauses of time in the context of legal writing. As argued by Quirk and Greenbaum (1997:322) the central view is that finite adverbial clauses of time are introduced by such subordinators as *after*, *before*, *since*, *until*, and *when*.

- (a) **While the vice-chancellor acts as chairperson, he or she is vested with all the powers and performs all the functions of the chairperson.**

- (a1) The vice-chancellor is vested with all the powers and performs all the functions of the chairperson.
- (b) Nominations must be invited by the secretary to the council as soon as there is a vacancy either by effluxion of time or because the representative has vacated his or her office.
- (b1) Nominations must be invited by the secretary to the council.
- (c) When it becomes necessary for the Senate to elect its representatives as members to the council as contemplated in section 27(4) (d) of the Higher Education Act, such representatives are elected by secret ballot and a majority of the members of the Senate present at an ordinary meeting of the Senate.
- (c1) The representatives of the Senate are elected by secret ballot and a majority of the members of the Senate present at an ordinary meeting of the Senate.
- (d) Whenever it is necessary for students to be elected as members of the council as contemplated in section 27(4) (f) of the Higher Education Act, the secretary to the council notifies the president of the students' representative council accordingly.
- (d1) The secretary to the council notifies the president of the students' representative council accordingly.
- (e) Whenever it is necessary for students to be elected as members of the Senate, as contemplated in section 28 (2) (f) of the Higher Education Act and paragraph 33(j) of the Senate, the secretary to the Senate notifies the president of the students' representative council accordingly.
- (e1) The secretary to the Senate notifies the president of the students' representative council accordingly.
- (f) When it is necessary for the council to elect its representatives as members to the Senate, as contemplated in paragraph 33(c) of the Statute and in section 28(2) of the Higher Education Act, such representatives are elected by secret ballot and a majority of the members of the council present at an ordinary meeting of the council.
- (f1) The representatives of the council are elected by secret ballot and a majority of the members of the council present at an ordinary meeting of the council.
- (g) The president and vice-president of the convocation must be elected by the convocation from among its own members at an annual meeting and must hold office from the close of the meeting at which they are appointed until the close of the second annual meeting thereafter.

- (g1) The president and vice-president of the convocation must be elected by the convocation from among its own members at an annual meeting and must hold office from the close of the meeting at which they are appointed.
- (h) The first act of an ordinary meeting, after it has been constituted, is to read and confirm by the signature of the chairperson the minutes of the last preceding ordinary meeting and of any extraordinary meeting held subsequently, provided that any objection to the minutes must be raised and dealt with before such confirmation.
- (h1) The first act of an ordinary meeting is to read and confirm by the signature of the chairperson the minutes of the last preceding ordinary meeting and of any extraordinary meeting held subsequently.
- (i) Before any disciplinary action is taken by the students' representative council's disciplinary committee, the rector or the disciplinary committee against a minor, his or her parents or guardians must be informed wherever possible of the steps that may probably be taken.
- (j) The parents or guardians of a minor must be informed of the steps that may probably be taken.

It is evident from the above analysis that the use of the adverbial clauses of condition and the adverbial clauses of time attest to Lyons's argument that,

If we are describing an action in English, we may tell our interlocutor, not only who did what to whom (or what), but also when, how or why he did it. Generally speaking, however, we are not obliged by the grammatical and lexical structure of English to give this circumstantial information. These circumstances are normally referred to by means of syntactically optional adverbs or adverbials (1983:497).

Following now is a discussion of statutory sentences that are illustrative of the use of adjective clauses. Flower and Sitko (1989:572) define an adjective clause as a subordinate clause that is used to modify a noun or a pronoun. As argued by Flower and Sitko (1989:572) many adjective clauses begin with relative pronouns such as

*who, whom, whose, that, and which*. Similarly, Good (2002:136) identifies the words, *that, which, who, whom, and whose* as sharing three characteristics; that is, (1) they introduce a dependent adjectival clause, (2) they serve a grammatical function in that clause, and (3) they refer to a particular noun in the main sentence. The last mentioned characteristic is corroborated by Soars and Soars' (2003:143) argument that relative clauses are used to tell us which person or thing we are talking about and that they make it possible to give more information about the person or thing being spoken about.

Similarly, Lyons (1983:761) argues that restrictive relative clauses, traditionally classified as adjectival clauses, are used characteristically to provide descriptive information which is intended to enable the addressee to identify the referent of the expression within which they are embedded. Good (2002:141) also argues that adjectival clauses come in two basic models; *restrictive clauses and non-restrictive clauses*. It is worth noting, therefore, that an adjective clause that begins with a relative pronoun is sometimes referred to as a relative clause as the relative pronoun relates the adjective clause to the noun or pronoun it modifies (Flower and Sitko, 1989:572).

Flower and Sitko (1989:573) argue that an adjective clause can be *essential* or *nonessential*. Flower and Sitko's assertion in this regard is attested to by Rose and Purkis' (1991:42) argument that adjectival clauses are of two kinds; *defining* and

*non-defining*. *Defining adjectival clauses* are necessary to our understanding of the noun described whereas *non-defining adjectival clauses* merely give extra information not necessary to the meaning of the sentence (cf. Rose and Purkis, 1991: 42). We argue, therefore, in Flower and Sitko's (1989:573) terms that an *essential adjective clause* must be included to make the intended meaning of a sentence complete. Thus, it is worth noting that a *nonessential adjective clause* is one that adds additional information to a sentence whose meaning is already complete (Flower and Sitko, 1989:573).

- (a) In each successive round of voting, the candidate who gains the least support in the previous ballot is eliminated as candidate.

The candidate who gains the least support in the previous ballot.

In each successive round of voting, the candidate is eliminated as candidate.

- A:1 The candidate is eliminated as candidate in each successive round of voting.

In sentence (a) above the relative clause *who gains the least support in the previous ballot* refers to the noun *candidate* and as such carries adjectival information which is essential for the identification of the candidate who gets eliminated *in each successive round of voting*. Thus we argue that using the relative clause enables us to know the grounds upon which the elimination is predicated; namely, *the least support that the candidate gains*.

- (b) The council must elect a chairperson from among its members, who must each hold office for a period of four years, or for such shorter period as he or she may be a member of the council.

A chairperson who must each hold office for a period of four years.

- B1: The council must elect a chairperson from among its members.

The expression *a chairperson who must each hold office for a period of four years* is typically a complex noun phrase whose head is the noun *chairperson*. Within the internal structure of the noun phrase, the relative clause *who must each hold office for a period of four years* specifies in more exact terms the duration of the term of office - *a period of four years*. Without this adjectival clause, it would be presumed that the *chairperson* is to hold office for as long as he or she wishes to serve as chairperson. This specification of the duration of the chairperson's term of office, serves, in our view, to forestall arbitrary extensions of the term of office. The use of the modal verb *must*, serves, to all intents and purposes, to impose an obligation to have the term of office held for the specified period of time.

- (c) The council may invite persons who are not members of the council to attend meetings, provided that such persons may take part in the discussion, but may not vote.

Persons who are not members of the council.

- C1: The council may invite persons, provided that such persons may take part in the discussion, but may not vote.

In sentence (c) above, the relative clause *who are not members of the Council*, specifies the persons the Council is granted permission to invite to attend meetings with the proviso that such persons may not vote in the event voting becomes desirable and inevitable. But in sentence (c1) the permission granted to the Council to extend its invitation to other persons does not distinguish between members and nonmembers. It is therefore inconceivable without stating specific grounds why such persons would have been invited if their voting would not be sanctioned.

- (d) Except as approved by a majority of members who actually hold office at the time of voting, no motion which has been rejected by the council must be placed before it again within a period of six calendar months from the date of such rejection.

**Members who actually hold office at the time of voting.**

**No motion which has been rejected by the council.**

- D1: Except as approved by a majority of members, no motion must be placed before it again within a period of six calendar months from the date of such rejection.

In sentence (d) the relative clause clarifies in more explicit terms the type of members of the council who qualify to grant their approval in respect of a motion to be placed before it (the Council). Such members must be holding office at the time of voting. The prepositional phrase *at the time* is crucial in locating the verbal activity, which is the *voting*, within a specific timeframe. The holding of office in terms of this provision, therefore, should have begun at some point in the past and continued up to the time of voting and beyond.



- (e) The views of the member of the council who is unable to attend a meeting may be submitted to the meeting in writing, but may not count as a vote by such a member.

The member who is unable to attend a meeting.

- E1: The views of the member of the council may be submitted to the meeting in writing, but may not count as a vote by such a member.

In sentence (e1) the omission of the relative clause, *who is unable to attend a meeting*, modifying the noun *member*, obscures the fact that it is not just any member of the council whose views may be submitted to the meeting in writing, but it is the views of the member *who is unable to attend a meeting*. If the first part of the predication in sentence (e1) - *may be submitted to the meeting in writing* - were to apply, it would constitute an absurdity since such views *may not count as a vote by such a member*. Therefore, using the adjectival relative clause put the predication into perspective by clarifying in precise terms that it is the member *who is unable to attend a meeting* that gets affected in this regard.

- (f) The election must take place by secret ballot at a meeting of employees other than the academic employees convened by the secretary to the council for that purpose, and the candidate who obtains the majority of the votes is duly elected.
- (f1) The election must take place by secret ballot at a meeting of employees other than the academic employees convened by the secretary to the Council for that purpose, and the candidate is duly elected.

In sentence (f1) the candidate who gets elected is not necessarily the one *who obtains the majority of the votes*. This situation is at odds with the provision that

obtains in sentence (f) where the candidate contemplated is the one *who obtains the majority of the votes*. Without the restriction imposed by the adjectival relative clause *who obtains the majority of the votes*, the execution of the election despite adhering to the other elements of the provision, would be characterized by indiscriminate election of the candidate informed by individual whims. Notably, the other modifying elements of the provision provide adverbial information and these elements are: *by secret ballot, at a meeting, of employees, other than the academic employees, by the secretary, for the council, and for that purpose*. Rewriting sentence (f) without the modifying elements as mentioned above would yield the following imaginary sentence: *The election must take place*. This imaginary sentence fails to provide detailed information essential for the execution of the election process in ways that would be deemed proper.

- (g) Candidates for election must be duly nominated in writing by at least two employees **who are not academic employees**, and the nominations must reach the secretary to the council at least 14 days before the date of the election.

Two employees who are not academic employees.

- G1: Candidates for election must be duly nominated in writing by at least two employees, and the nominations must reach the secretary to the council at least 14 days before the date of the election.

- (h) Professors and senior lecturers **who are members of the Senate and referred to in paragraph 33(d) and (e)**, and directors of centers referred to in paragraph 33(h) and the University librarian referred to in paragraph 33(g) hold office as long as they are employed in that capacity.

**Professors and senior lecturers who are members of the Senate and referred to in paragraph 33(d) and (e).**

**H1: Professors and senior lecturers, and directors of centers and the University librarian hold office as long as they are employed in that capacity.**

**(i) The roll of convocation is evidence that a person whose name appears therein at the time of an election by the convocation is entitled to vote thereat, and that a person whose name does not appear therein is not so entitled.**

**A person whose name appears therein at the time of an election by the convocation.**

**I1: The roll of convocation is evidence that a person is entitled to vote thereat, and that a person is not so entitled.**

**(j) A person who donates to the University, a donation of not less than R500 or more than one donation of not less than R500 in total, which donation or donations, as the case may be, is accepted by the council, is a member of the donors as referred to in paragraph 9(2)(i), and entitled to be elected as a member of the council as contemplated in that paragraph.**

**A person who donates to the University, a donation of not less than R500 or more than one donation of not less than R500 in total.**

**J1: A person is a member of the donors as referred to in paragraph 9(2)(i), and entitled to be elected as a member of the council as contemplated in that paragraph.**

**(k) Every person who registers as a student of the University must, after he or she has signed the registration form of the University, be subject to disciplinary measures and procedures applicable to students as determined by the Statute and the Rules.**

**A person who registers as a student of the University.**

**K1:** Every person must, after he or she has signed the registration form of the University, be subject to disciplinary measures and procedures applicable to students as determined by the Statute and the Rules.

**(l)** The University librarian may summarily debar a student who has infringed any Rule applicable to the library facilities for a maximum period of 14 days.

**A student who has infringed any Rule applicable to the library facilities.**

**L1:** The University librarian may summarily debar a student for a maximum period of 14 days.

**(m)** A member of the teaching staff may summarily suspended a student who is late for a lecture or who behaves in disorderly manner from attending his or her classes for a maximum of two class periods, provide that, if such member of teaching staff is not the head of the department, he or she must report such disciplinary action to the head of the department, who may at his or her discretion reduce the period of suspension.

**A student who is late for a lecture or who behaves in disorderly manner.**

**M1:** A member of the teaching staff may summarily suspend a student from attending his or her classes for a maximum of two periods, provided that, if such a member of teaching staff is not the head of the department, he or she must report such disciplinary action to the head of the department, who may at his or her discretion reduce the period of suspension.

**(n)** A student who is charged with misconduct may personally or through his or her representative-

**(i)** address the committee at the start of the proceedings to explain the basis of his or her defence;

**(ii)** question any of the witnesses called by the committee;

**(iii)** inspect any document or exhibit submitted as evidence at his or her hearing;

**(iv)** tender evidence himself or herself as regards his or her defence or in mitigation of sentence;

**(v)** call witness and submit documentary evidence in support of his or her defence or mitigation of sentence; and

**(vii)** address the committee in defence or in mitigation of sentence after all evidence has been tendered.

A student who is charged with misconduct.

- N1: A student may personally or through his or her representative-
- (i) address the committee at the start of the proceedings to explain the basis of his or her defence;
  - (ii) question any of the witnesses called by the committee;
  - (iii) inspect any document or exhibit submitted as evidence at his or her hearing;
  - (iv) tender evidence himself or herself as regards his or her defence or in mitigation of sentence;
  - (v) call witness and submit documentary evidence in support of his or her defence or mitigation of sentence; and
  - (vi) address the committee in defence or in mitigation of sentence after all evidence has been tendered.

Notably, all the adjectival clauses under discussion above are instances of restrictive relative clauses which narrow down a range of possibilities as opposed to them being non-restrictive clauses which merely add information (cf. O' Connor, 2003:71). Thus it needs to be noted that relative clauses in general, without making the distinction between defining and non-defining clauses, are used to tell us which person or thing we are talking about and that they make it possible to give more information about the person or thing being spoken about (Soars and Soars, 2003:143).

We, therefore, uphold as relevant and tenable, within the context of legal writing, Lyons' (1983:761) argument that restrictive relative clauses are used characteristically to provide descriptive information which is intended to enable the addressee to identify the referent of the expression within which they are embedded. As argued by Burton-Roberts (1986:192) relative clauses function as

modifiers within the noun phrase and as such they are used to specify more exactly which entities are being talked about. Thus, we argue, that the writers of the statutory sentences in question seem to have heeded Aarts and Aarts' (1988:440) caution that when an adjective clause is not essential to the meaning of a sentence, it should be set off with commas and that one should not use commas to set off adjective clauses that are essential to the meaning of a sentence (440). Notably, all the relative clauses have not been set off with commas. Therefore, all of them are essential to the meaning of their respective sentences.

#### Summary:

In this chapter, the exposition and analysis focused on the use of the linguistic structures mentioned hereunder:

- (a) Adverbial clauses of condition introduced by the subordinator *if* (positive condition).
- (b) Adverbial clauses of condition introduced by the subordinator *unless* (negative condition).
- (c) Adverbial clauses of time introduced by the subordinators *while, as soon as, when, whenever, until, after, before,* and
- (d) Adjectival relative clauses introduced by the relative pronouns *who, which* and *whose*.

In our analysis in this chapter, we established that although, as argued by Lyons (1983) we are not obliged by the grammatical and lexical structure of English to give circumstantial information, these circumstances are essential in enhancing the effectiveness and communicative potential of the sentences.

The following chapter renders an exposition and analysis of the data presented in *Appendix B*.

## Chapter Five

### Exposition and Data Analysis (2)

When we impose upon someone the obligation to perform or to refrain from performing a particular act, we are clearly not describing either his present or future performance of that act. There is a sense in which the sentence we utter can be said to express a proposition but it is not a proposition which describes the act itself. What it describes is the state-of-affairs that will obtain if the act in question is performed (Lyons, 1983:823).

Shall, is now restricted to two situations: (1) interrogative sentences requesting permission or agreement (shall we dance?) and (2) legal documents, in which shall purportedly imposes a duty (Good, 2002:62).

Entire essays could be, and have been, written about the differences between shall and will. These go beyond the question of forming the future tense and delve into the use of shall and will to show determination and compulsion (Good, 2002:63).

This chapter renders an exposition and analysis of the data presented in *Appendix B*. As already indicated in chapter 3 a content analysis as a methodology is opted for as it is deemed the most appropriate method to use in the context of this study. In analysing the statutory sentences as they obtain in Appendix B, we shall focus specifically on the language structures both within the nominal group and the verbal group that have been used in the construction of these legal texts. Our approach in this regard is informed, as alluded to earlier on, by Aarts and Aarts' (1988) argument to the effect that sentences can be described by specifying the functions that their constituents have in sentence structure and the categories to which their constituents belong. In this chapter, therefore, we argue, among other things, that the purpose and context of legal writing determine the use of language



structures such as the passives and modal verbs. This, as already indicated in chapter 4, is attested to by van der Walt and Nienaber's (2002:134) assertion that writers of statutes make extensive use of language structures such as passives and modal verbs, especially those expressing *obligation*, such as *shall*. For purposes of clarity and precision, the following statutory sentences illustrative of the use of specific linguistic devices for specific purposes as contemplated by the writer are singled out as exemplifying the state of affairs talked about:

- (1) **There shall be a Chancellor of the University who shall be the Head and Chief Officer of the University.**

There shall be a Chancellor.

- (2) **There shall be a Vice-Chancellor who shall be the Chief Academic and Administrative Officer of the University and who shall exercise such powers and perform such duties as may be conferred on him by the Statutes.**

There shall be a Vice-Chancellor.

- (3) **There shall be a Pro-Vice-Chancellor who shall act as Vice-Chancellor during a vacancy in that office or during the absence, inability or incapacity of the Vice-Chancellor.**

There shall be a Pro-Vice-Chancellor.

- (4) **There shall be a Registrar of the University appointed by the Council who shall be the Chief Administrative Officer of the University and shall exercise such powers and perform such duties as are assigned to him under this Act, the Statutes and by the Council, or as may be delegated to him by the Vice-Chancellor.**

There shall be a Registrar.

- (5) **There shall be a Bursar of the University who shall be appointed by the Council in such manner and under such conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the financial administration of the University.**

There shall be a Bursar.

- (6) There shall be a Librarian of the University who shall be appointed by the Council in such manner and under such conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the Libraries of the University.

There shall be a Librarian.

- (7) There shall be a Council of the University which shall, subject to this Act, be responsible for the Government, control and administration of the University.

There shall be a Council.

- (8) There shall be a Senate of the University which shall be the academic authority of the University and shall control and direct the teaching, research, examinations and the award of degrees, diplomas, certificates and other awards.

There shall be a Senate.

- (9) There shall be within the University such Faculties as the Council may on the recommendation of the Senate determine.

There shall be Faculties.

- (10) There shall be a Dean of each Faculty, who shall be ex-officio the Chairman of the Faculty Board, and who shall, under the general direction and control of the Vice-Chancellor, perform such other functions and exercise such other duties as may, from time to time, be determined by the Senate.

There shall be a Dean.

- (11) There shall be a Students' Representative Council which shall be constituted in accordance with the Statutes.

There shall be a Students' Representative Council.

- (12) There shall be a Finance Committee which shall advise the Council on all financial matters of the University.

There shall be a Finance Committee.

- (13) There shall be a Buildings and Tenders Committee of the Council which shall advise the Council on the growth and development of the University.

There shall be a Buildings and Tenders Committee.

- (14) There shall be an Academic and Administrative Staff Committee of the Council.

There shall be an Academic and Administrative Staff Committee.

- (15) There shall be the Institute of Post Graduate Studies, with a Board coordinating and offering postgraduate programmes across the University.

There shall be the Institute of Post Graduate Studies.

It needs to be reiterated at this stage of the discussion that in legal documents *shall* imposes a duty that requires compliance with the provisions of the statutes in question (cf. Good, 2002:62). The expressions above are instances of what is linguistically defined as existential sentences. As argued by Leech et al (1982) existential sentences are introduced by a special particle as subject, followed by the verb *to be*. This *existential particle*, also referred to as the *expletive subject* (Radford, 1990:283), characteristically introduces a proposition of existence (cf. Leech et al, 1982:126-127). Similarly, Quirk and Greenbaum (1997:418) argue that existential sentences are principally those beginning with the unstressed word *there*, and are so called because when unstressed *there* is followed by a form of the verb *to be*, the clause expresses the *notion of existence*. Huddleston and Pullum (2005:299) define an existential sentence clause as one which prototypically has the dummy pronoun *there* as subject and a complement corresponding to the

subject of a more basic construction. The word dummy is defined as a meaningless word required in some construction to satisfy a syntactic function and this can be exemplified by the sentence *There was a key on the table* where *a key* corresponds to the subject of the more basic sentence *A key was on the table* (Huddleston and Pullum, 2005:299). The general rule that accounts for the construction of existential sentences is:

Subject+ (auxiliaries) + be + predication  
There + auxiliaries + be + subject + predication

As argued by Good (2002:263) the word *there* fills the role of the noun following the expression and that role is the grammatical subject of the sentence. Thus, if we say: *There shall be a Chancellor of the University who shall be the Head and Chief Officer of the University*, the word *there* stands in for a Chancellor of the University who shall be the Head and Chief Officer of the University as the grammatical subject of the sentence. We could, then, in Good's (2002:263) terms, 'flip the sentence over' and say, *A Chancellor of the University who shall be the Head and Chief Officer of the University shall be there*. It should be noted, therefore, that the *there* of existential sentences differs from *there* as an introductory adverb (Quirk and Greenbaum, 1997: 419). This is attested to by Halliday and Hasan's (1997) assertion that the circumstantial (adverbial) *demonstrative there* refers to the location of a process in space or time and it typically functions as an Adjunct in the clause, not as an element within the nominal

group. Notably, van der Walt and Nienaber's (2002:134) assertion that writers of statutes make use of language structures such as passives and modal verbs, especially those expressing obligation, such as *shall* is attested to by all the existential sentences reproduced above. We argue that the use of *shall* as a modifier in the context of these statutory sentences is significant in helping readers determine how each of these statutes has to be read and interpreted. As argued by van der Walt and Nienaber (2002:138) *shall*, as a modal verb, has more or less the same meaning as *must* but is much stronger and that this word is used to indicate *command, obligation, or duty*. Van der Walt and Nienaber's argument in this regard is, as already argued in chapter four, attested to by Good's (2002:62) assertion that in legal documents *shall* purportedly imposes a duty. Thus the appropriate response on the part of the addressees is absolute compliance with the stipulation(s) of the utterance as mediated by the text. In other words, 'the proposition of existence' of the specified entities demands that the proposition culminates in the realization of the existence of the said entities as enunciated in the respective statutes. It is, therefore, obligatory that these entities exist as contemplated or envisaged.

It is also noticeable that each entity designated to exist has a role unequivocally assigned to it. This unequivocal assignment of specific roles to each of these entities is achieved by having the said entity modified by language structures such

as adjectival prepositional phrases and adjectival relative clauses. Thus the following entities designated to exist are identifiable:

- (a) A Chancellor of the University who shall be the Head and Chief Officer of the University.
- (a1) A Chancellor shall be the Head and Chief Officer of the University.
- (b) A Vice-Chancellor who shall be the Chief Academic and Administrative Officer of the University and who shall exercise such powers and perform such duties as may be conferred on him by the Statutes.
- (b1) A Vice-Chancellor shall be the Chief Academic and Administrative Officer of the University and shall exercise such powers and perform such duties as may be conferred on him by the Statutes.
- (c) A Pro-Vice-Chancellor who shall act as Vice-Chancellor during a vacancy in that office or during the absence, inability or incapability of the Vice-Chancellor.
- (c1) A Pro-Vice-Chancellor shall act as Vice-Chancellor during a vacancy in that office or during the absence, inability or incapability of the Vice-Chancellor.
- (d) A Registrar of the University appointed by the Council who shall be the Chief Administrative Officer of the University and shall exercise such powers and perform such duties as are assigned to him under this Act, the Statutes and by the Council, or as may be delegated to him by the Vice-Chancellor.
- (d1) A Registrar shall be the Chief Administrative Officer of the University and shall exercise such powers and perform such duties as are assigned to him under this Act, the Statutes and by the Council, or as may be delegated to him by the Vice-Chancellor.
- (e) A Bursar of the University who shall be appointed by the Council in such manner and under such conditions as provided for him in the Statutes, and

who shall be responsible to the Vice-Chancellor for the financial administration of the University.

- (e1) A Bursar shall be appointed by the Council in such manner and under such conditions as provided for in the Statutes, and shall be responsible to the Vice-Chancellor for the financial administration of the University.
- (f) A Librarian of the University who shall be appointed by the Council in such manner and under such conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the Libraries of the University.
- (f1) A Librarian shall be appointed by the Council in such manner and under such conditions as provided for in the Statutes, and shall be to the Vice-Chancellor for the Libraries of the University.
- (g) A Council of the University which shall, subject to this Act, be responsible for the Government, control and administration of the University.
- (g1) A Council shall be responsible for the Government, control and administration of the University.
- (h) A Senate of the University which shall be the academic authority of the University and shall control and direct the teaching, research, examinations and the award of degrees, diplomas, certificates and other awards.
- (h1) A Senate shall be the academic authority of the University and shall control and direct the teaching, research, examinations and the award of degrees, diplomas, certificates and other awards.
- (i) A Dean of each Faculty, who shall be *ex-officio* Chairman of the Faculty Board, and who shall, under the general direction and control of the Vice-Chancellor, perform such other functions and exercise such other duties as may, from time to time, be determine by the Senate.
- (i1) A Dean shall be *ex-officio* Chairman of the Faculty and shall, under the general direction and control of the Vice-Chancellor, perform such other

functions and exercise such other duties as may, from time to time, be determined by the Senate.

- (j) A Students' Representative Council which shall be constituted in accordance with the Statutes.
- (j1) A Students' Representative Council shall be constituted in accordance with the Statutes.
- (k) A Finance Committee which shall advise the Council on all financial matters of the University
- (k1) A Finance Committee shall advise the Council on all financial matters of the University.
- (l) A Buildings and Tenders Committee of the Council which shall advise the Council on the growth and development of the University.
- (l1) A Buildings and Tenders Committee shall advise the Council on the growth and development of the University.

We argue that what we have represented above are complex noun phrases functioning as complete subjects of their respective statutory sentences. It is worth reiterating that each complete subject contains a simple subject which tells whom or what the sentence is about. Furthermore, this simple subject may be a single word or a group of words, but does not include modifiers (cf. Flower and Sitko, 1989:533). Thus, removing the modifiers within the internal structure(s) of the noun-phrases would yield the following as the simple subjects:



- (a) Chancellor
- (b) Vice-Chancellor
- (c) Pro-Vice-Chancellor
- (d) Registrar
- (e) Bursar
- (f) Librarian
- (g) Council
- (h) Senate
- (i) Dean
- (j) Council
- (k) Committee
- (l) Committee

With specific reference to the committees cited in (k) and (l) the absence of the modifiers *finance* in Finance Committee and *buildings* and *tenders* in Buildings and Tenders Committee respectively would obscure the fact that there obtains two different committees which are assigned different functions in the operation of the University. We argue therefore that the use of the modifiers serve to specify the reference by characterizing the referent. In the noun phrase *Finance Committee* the word *finance* is used as an adjective and thus carries adjectival information. As argued by Rose and Purkis (1991:11) adjective is the name given to that group of words which give us more information about nouns or pronouns and make their meaning more exact.

In our view therefore, it is the exactness of the meaning as achieved through the use of the modifier that bestows a central role to the modifier in the context of legal writing. As argued by van der Walt and Nienaber (2002:195) it is sometimes difficult to determine a writer's purpose as it is not always explicit. For example, in

(g) and (j) above, we have the noun phrase *Council* featuring as the head noun of the respective subjects. In (g) we have a *Council of the University* and in (j) we have a *Students' Representative Council*. In (g) if we remove the adjectival prepositional phrase *of the University* we are left with *Council* and in (j) removing *students' representative* as an instance of premodification also leaves us with *Council*. Notably, removing the modifiers results in obscuring the fact that reference is being made to two different *councils* each of which is assigned a specific role. Thus, it is worth reiterating that the necessary specification is contained in the modifier and that a modifier has the effect of explicitness and of specifying exactly that which is the point of information (Halliday and Hasan, 1997:96).

It is worth repeating in Good's (2002:98) terms that a chunk of words must always be serving some function in a sentence. If that chunk is not acting as a verb, a noun, or an adverb, then chances are good it is acting as an adjective. Hence the study of linguistic units and their principles of combination would not be complete without an account of what these units mean, what they are used to talk about, and what they are used to communicate (Akmajian, 1995). The simple subjects above are followed by a chunk of words which could be conveniently divided into phrases and clauses. Thus the following prepositional phrases and relative clauses, to mention but a few, are identifiable as performing specific roles within the internal structure(s) of the nominal groups.

### Prepositional Phrases:

- (a) of the University
- (b) by the Statutes
- (c) during a vacancy
- (d) in that office
- (e) by the Council
- (f) under this Act
- (g) in the Statutes
- (h) to the Vice-Chancellor
- (i) for the financial administration
- (j) for the Libraries
- (k) by the Senate
- (l) in accordance with the Statutes
- (m) on all financial matters

### Relative clauses:

- (a) who shall be the Head and Chief Officer
- (b) who shall be the Chief Academic and Administrative Officer
- (c) who shall act as Vice-Chancellor
- (d) who shall be the Chief Administrative Officer and shall exercise such powers and perform such duties as are assigned to him
- (e) which shall be the academic authority of the University and shall control and direct the teaching, research, examination and the award of degrees, diplomas, certificates and other awards.

We argue that the use of the adjectival relative clauses within the structure of the nominal group is essential and this is attested to by the distinction between defining and non-defining clauses. As already argued earlier on, defining adjectival clauses are necessary for our understanding of the noun described whereas non-defining adjectival clauses are merely giving extra information not necessary to the meaning of the sentence (cf. Rose and Purkis, 1991:42). We argue, therefore, in Flower and Sitko's terms that an *essential adjective clause* must be included to

make the intended meaning of a sentence complete (1989:573). Thus, it is worth noting that a *nonessential adjective clause* is one that adds additional information to a sentence whose basic meaning is already complete (Flower and Sitko, 1989:573). Thus far we have focused the discussion mostly on the internal structure of the subject noun phrases within the nominal group. By so doing, we managed to establish that language structures, be they single words, phrases or clauses are extensively used in the construction of statutory provisions to perform specific functions, that of specification.

Following is an analysis of statutory sentences whose composition differs significantly from the preceding ones. Since in the foregoing discussion we dwelt more on the internal structure of the subject noun phrases, we now shift the focus from the subject noun phrase to the predicate verb phrase in the Verb Group.

1. The Vice-Chancellor shall be selected by a committee of seventeen members constituted as follows -
  - (a) The Chairman of the Council who shall be the Chairman of the Committee.
  - (b) Three members of the Council who are not members of the Senate appointed by the Council;
  - (c) Three members of the Senate appointed by the Senate.

The prepositional phrase *by a committee* functions to specify the agent of the selection process. It is, therefore, a provision of the statute that the *committee*

has as its prerogative the selection of the Vice-Chancellor from among other contestants. Specifying how the committee is to be constituted and attaching a number that should comprise the committee is, in our view, a device used to strike a balance between possible contending views that might ensue among the committee members as to who qualifies for the said position. Put differently, the evenly distributed number of the representatives (supposing of course that the Chairman only exercises a casting vote), renders the selection process more authentic and relatively fair.

2. The Vice-Chancellor shall -

- (a) hold office for a period of four years and be eligible for re- appointment;
- (b) be the Chief Disciplinary Officer of the University and may for good cause before a hearing and /or during an investigation:
  - (i) suspend a student from attending any class or lecture;
  - (ii) exclude any student from the University or its precincts;

Provided that such suspension or exclusion and reasons thereof shall be reported by the Vice Chancellor to the Senate at its next meeting.

The time frame for holding office as Vice-Chancellor of the University is not arbitrarily determined as and when individuals decide to do so. Instead, it is provided for in the statutes. The prepositional phrases *for a period of four years* specifies the term of office. It is noticeable that in the exercise of his or her powers as Head and Chief Officer of the University certain conditions are attached

to the exercise of certain powers. For example, the use of the modal verb *may* signals the granting of permission to the Vice-Chancellor to suspend a student from attending any class or lecture or exclude any student from the University or its precincts on condition that such suspension or exclusion and reasons thereof shall be reported by the Vice-Chancellor to the Senate at its next meeting. We argue, therefore, that failure on the part of the Vice-Chancellor to adhere to the proviso in the statute would constitute a breach warranting disciplinary action against the Vice-Chancellor.

3. The Vice-Chancellor may resign in writing addressed to the Chairman of Council.

The use of the modal verb *may* as a modifier of the lexical verb *resign* is meant to grant permission to the Vice-Chancellor to disown his or her contract before the contract expires. In other words there is no obligation on the part of the Vice-Chancellor to observe the contractual period in its entirety as would have been expected of him or her. The contemplated resignation must be tendered to no one other than the Chairman of Council and the manner of tendering this resignation is by means of a written notification.

4. The Council shall, on the recommendation of a Joint Committee of the Council and the Senate, appoint a Registrar on such terms and conditions as the Council may determine.

Without the modifying elements the imaginary sentence would have been constructed as: *The Council appoints a Registrar*. So, in the absence of the modal *shall* we would not know what obligation there is on the part of the Council and how much leeway it has to welcome recommendations or not from other structures that might be affected by the appointment. The use of the conditional clause *on the recommendation of a Joint Committee of Council and the Senate* imposes the need to seek wisdom from other structures to inform the said appointment. It is also noticeable that the statute imposes not only an obligation to the Council to take into account recommendations from the designated Committee, but it also grants the Council the opportunity to exercise discretionary powers in determining the terms and conditions of the appointment. All in all, the appointment of a Registrar must be predicated on the recommendation of a Joint Committee of the Council and the Senate and the terms and conditions to be attached to the appointment may be decided upon as the Council deems fit.

5. The outgoing Registrar shall not be eligible for election as a member of the Joint Committee.

In the Verb Phrase above, the word *not* signals negation in respect of the eligibility of the outgoing Registrar to be considered for election. Notably, this illegibility for the said election is restricted to being a member of the Joint Committee. This

is signaled by the adverb *as* indicating the capacity in which the outgoing Registrar shall not be eligible for election.

6. The Registrar shall be responsible to the Vice-Chancellor and to the Council for the administration of academic matters of the University and shall keep such records as may be necessary.

In the Verb Phrase above, the following linguistic structures all perform significant functions in the structure of the expression:

- (a) to the Vice-Chancellor and to the Council
- (b) for the administration
- (c) of academic matters
- (d) of the University
- (e) as may be necessary

The reference to the Vice-Chancellor and to the Council specifies unequivocally whose prerogative it is to demand accountability from the Registrar as regards his or her duty in that capacity. The Registrar, therefore, is answerable only to the Vice-Chancellor and the Council. Again the use of the modal auxiliary *shall* indicates that the said accountability is an *obligation*, a *command* and a *duty* to be strictly observed and failure on the part of the Registrar to observe this injunction would constitute a breach. The prepositional phrases *for the administration* and *of academic matters* both have a locative function in restricting the duties for which he or she could be answerable. Notably, the keeping of records by the Registrar is obligatory but there is no specific mentioning as to what records are to be kept. This fact notwithstanding, the use of the adverbial expression *as may be necessary*



grants permission to the Registrar to exercise his or her discretion as informed of course by necessity to determine what records to keep.

7. **The Council shall, on the recommendations of the Joint Committee of the Council and the Senate, appoint a Librarian on such terms and conditions as the Council may determine.**

The appointment of a Librarian is an obligation and must be done observing the conditional clause *on the recommendation of the Joint Committee of the Council and the Senate* which serves to forestall capriciousness on the part of the Council in its appointment of the candidate. Whilst it is an obligation to take into account the recommendation(s) of the designated Joint Committee of the Council and the Senate, permission is granted to the Council to determine the terms and conditions of the appointment.

8. **A Head of Department shall be appointed by the by the Vice-Chancellor, from among the members of the academic staff of the Department.**

The prepositional phrases, *by the Vice-Chancellor, from among the members, of the academic and of the Department*, each performing a different function, obtain within the structure of the Verbal Group.

9. **The Faculty Tutor, in the performance of his functions, be assisted by the Dean of Faculty and Heads of Departments of that Faculty.**

The prepositional phrases, *in the performance* and *of his functions*, set the conditions that define the assistance to be afforded the Faculty Tutor. These two adverbial phrases restrict the scope of the envisaged assistance in the context of the Faculty Tutor's execution of his functions. The expression by the Dean of Faculty and Heads of Departments of that Faculty restricts the specification of the agents of the assistance as contemplated by the obligatory decree.

9. The University may, from time to time, confer upon any person who has rendered distinguished service in the advancement of any branch of learning or who has otherwise rendered worthy of such degree any of the following degrees:

- Doctor of Laws (Hons. L.L.D.)
- Doctor of Literature (Hons.D.Litt.)
- Doctor of Education (Hons. D.ED.)
- Doctor of Science (Hons.D.Sc.)

Removing adverbial information from the internal structure of the Verb Group would yield the imaginary sentence: *The University confers degrees*. Had the sentence been constructed as imagined here above, its meaning would be far from being representative of the communicative intent as intended by the statute. In the imaginary sentence, we would not have a statutory provision, instead we would have a declarative statement informing us of what the University does, which is to confer degrees. Again, in the imaginary sentence, the lexical verb *confers* indicates that the act of conferring degrees is something that the University habitually does. This conferment has been happening in the past, is happening now and will continue

to happen in the future for as long as the University resolves to do so. With the modifiers the meaning of the sentence changes significantly and its composition or construction resembles statutory formulations. The use of the modal verb *may* grants permission to the University to confer the degrees enlisted in the statute. The category of people who qualify for the award of such degrees is explicitly indicated by the expression: *any person who has rendered distinguished service*. The use of the modifier *any* in the noun phrase *any person* signals inclusiveness. But it is not just any person. The person envisaged by the statute is the one *who has rendered distinguished service*. Again, it is not just the rendition of service that would qualify the individual; the *service* must be characterized as *distinguished*. Furthermore, the *service* contemplated by the statute must have been *in the advancement of any branch of learning*. The degrees that may be conferred by the University are the ones enumerated in the statute.

### Summary:

In this chapter, the exposition and data analysis focused on the following language structures:

- (a) Existential sentences.
- (b) Prepositional phrases.
- (c) Adjective relative clauses.
- (d) Adverbial clauses.
- (e) The modal verb *shall*.

Thus, we have argued, in this chapter, that the use of existential sentences is significant in that 'the proposition of existence' of the specified entities demands that the proposition culminates in the realization of the existence of the said entities as enunciated in the statutory provisions. We have also argued that the use of shall as a modifier in the context of these statutory sentences is significant in helping readers determine how each of these statutes has to be read and interpreted. We, therefore, conclude that an acceptable interpretation of these statutory sentences is the one that recognizes the obligatory element in the enunciation that these entities exist as contemplated or envisaged. In the following chapter, we discuss the implications of the study as derived from our analysis in the literature review in chapter two and chapters four and five respectively.

## Chapter Six

### Discussion of the implications of the study

Those who have English as their primary language are automatically at an advantage. They do not have to waste time learning it, and are comfortable using it as a means of communication. On the one hand, people who have mastered the world language become more influential in the world affairs and scientific research. On the other hand, those who do not have English as their primary language are at a distinct disadvantage. It takes far more mental or cognitive effort for them to understand ideas expressed in it and to express their own thoughts clearly and accurately. This naturally affects their efficiency and sense of self-esteem, which in turn affect the way they present themselves and their ideas (Horne and Heinemann, 2003:19).

Syntax has such an important role to play in legal expression that any neglect on the part of the language teacher can have disastrous consequences. On the other hand, the use of syntax in legal language is highly complex and specialized, so any account of general grammar can be misleading, inadequate and pedagogically ineffective, and of course boring (Van der Walt and Nienaber, 2<sup>nd</sup> ed. 2002:vii).

In this chapter the focus of the discussion will be on the implications of the study as derived in particular from our analysis in the literature review in chapter two and in chapters four and five respectively where the analysis was based on the two statutes under investigation. In these chapters, we probed into the internal structure of both the nominal group and the verbal group to determine how the linguistic units, be they single words, phrases or clauses, relate to one another within each sentence and what functional role they play within these constituent groups. We have established that although in Burton-Roberts (1986), Brown and Miller (1988), Hurford (1994) and Downing and Locke' (2006) view modifiers are syntactically 'accessory' within their constructions, they are, nevertheless,

semantically significant given their contributory role in the semantics of the constructions. Thus, we have argued, with specific reference to complex legal texts, that modifiers both within the nominal group and the verbal group are inherently significant in specifying more exactly what or who is being spoken about and also how, when, and under what circumstances the action in question is being or has been carried out.

Thus, on the basis of our analysis in the literature review in chapter two and the content analysis of the statutes in chapters four and five respectively, we can assert emphatically that one most conspicuous implication of the study is that in second language learning, 'a thorough study of grammar should head the list' of what needs to be taught in the language. This then necessitates that we insist getting back to the basics. By necessary implication, therefore, students will not gain mastery of basic grammar through osmosis, not when they are immersed in a commercial, media-driven culture that often makes a virtue of ignorance (cf. Good, 2002:416). As argued by Good (2002:416) words matter, words have meaning, and grammar controls the way we ensure that our meaning comes shining through, clearly and without ambiguity.

Our insistence on getting back to the basics of grammar with the view of acquiring not just the basics but some fairly sophisticated concepts undergirding the English

language (cf. Good, 2002:418) is supported by Tudor's argument that students without having to become linguists, need at least a basic idea of how language is structured and used, for example, certain grammatical or functional categories, the ability to recognize formulaic expressions and some notion of register (Tudor in Hedge, 1996:275). As argued by Horne and Heinemann (2005:174) the way a sentence is structured is crucial to meaning. Thus mastery of English grammar - syntax or sentence structure is to be aimed for when teaching the English language to second language learners.

As already alluded to above, it cannot be presumed that knowledge of the structure of the English language will be known by second language learners without overt instructional intervention. Our view in this regard is corroborated by Politzer's (quoted in Cox, 1991) assertion that with older learners, some focus on grammar may be difficult to avoid (52) and that tutored, planned instruction which pays some attention to standard grammar may be the only way out (53). Notably, therefore, lack of knowledge of sentential structure results in cognitive deficit which is defined as the limitations on mental efficiency required to process information in an additional language. As indicated earlier on, the majority of the University of Zululand students suffer from this cognitive deficit. Consequentially, such students cannot use the English language effectively as a means of accessing not only information but also job opportunities.

The importance of gaining mastery of English grammar is also necessitated, as argued by Horne and Heinemann (2003:203), by the fact that in writing which is intended to instruct, as is the case with legal texts, the sentence structures will include imperative or command verb forms (as evidenced in the use of *must* and *shall* in the statutes under investigation). Moreover, such instructive writing will also use sequencing to indicate the correct order in which things ought to be done to achieve a particular outcome and this is exemplified by sentences such as:

- (a) No person may be elected unless he or she has been nominated in writing by two members and he or she has confirmed by his or her signature that he or she accepts the nomination.
- (b) Before any disciplinary action is taken by the students' representative council's disciplinary committee, the rector or the disciplinary committee against a minor, his or her parents or guardians must be informed wherever possible of the steps that may probably be taken.

Since writing is not acquired naturally through simple exposure to others speaking the language, but must be taught and that writing follows certain prescriptive rules of grammar, usage, and style that the spoken does not, and is subject to little if any dialectical variation (cf. Fromkin and Rodman, 2007:16), learners need to be competent in the use of language structures such as words, phrases and clauses - the structural elements of communication, in order for them to be competent readers. And as we indicated earlier on these language structures cannot be acquired through osmosis, but must be taught explicitly to enhance the learners' cognitive ability to access information in texts in the form of ideas. Thus we argue



that learners need to be taught and acquire a broad and deep knowledge of the use of the language structures that are put to use in writing. As argued by Good (2002:417) if we do not study them, if we do not learn all about them, if we do not practice using them in our discourse, then...our ability to communicate is bleak indeed.

In accounting for the linguistic incompetence of the majority of second language learners and the inherent difficulty they have in reading legal texts, Van der Walt and Nienaber (2002:v) attribute the learners' predicament as occasioned by the fact that,

In the context of legal education...language training has always been considered the responsibility of the legal experts rather than that of the language teacher. However, most legal educators have neither the time nor the expertise in language teaching to train their students in the intricacies of legal communication, with the result that most of these apprentice legal scholars have generally been left on their own to learn the use of legal expression at work. In most cases, it is like learning surgery from experience, which can be very difficult for the surgeon and equally hard on the patient.

Since most legal educators have neither the time nor the expertise in language teaching to train their students in the intricacies of legal communication (cf. Van der Walt and Nienaber, 2002:v), the language teacher must be adequately trained to be able to deal with the incredible complexity of the grammar of English (cf. Kennedy, 2003:5). This is in view of the fact that without adequate training geared towards the moulding of teachers to help them acquire a knowledge base that is both theoretical and practical (cf. Webb and Kembo-Sure, 2000:309), the linguistic

situation of the students as it obtains now, will continue to affect their efficiency and sense of self-esteem, which in turn affect the way they present themselves and their ideas (Horne and Heinemann, 2003:19). Also, since syntax has an important role to play in legal expression and as any neglect on the part of the language teacher can have disastrous consequences and also the fact that the use of syntax in legal language is highly complex and specialized (Van der Walt and Nienaber, 2<sup>nd</sup> ed. 2002:vii), teachers of language must be given specific training in language teaching skills and not just general training (cf. Webb and Kembo-Sure, 2000:310).

Thus, in the context of second language learning and acquisition, foregrounding the subject noun phrase and the predicate verb phrase (cf. Mkhathwa, 2005) and the extension of this foregrounding to cover subordination both within the nominal group and the verbal group is to be seen as a pragmatic approach informed by specific assumptions as regards the most pragmatic method to adopt towards addressing the linguistic needs of a specific target group, namely, second language learners of English. It is worth noting, therefore, that most if not all, of the arguments advanced against the explicit teaching of grammar are derived from the perspective of native speakers, who in their view, have had a bad spell with 'traditional grammar' which when correctly construed is to be designated Latinate grammar. The underlying argument advanced against the explicit teaching of

grammar is that it entails the isolated study of language skills which has little or no effect on that permanent language knowledge we carry in our heads and that the skills fail to transfer when students are engaged in the messy business of composing an essay (cf. Maxwell, 1997:293). In Maxwell's view for those who do learn grammatical terms, the knowledge is fleeting, largely because students quickly realize that labeling nouns and defining verbs does not make a significant impact on their lives (Maxwell, 1997:294). It is important, therefore, to note that the kind of grammar teaching as outlined above is not the kind of grammar teaching that we envisage for it would not be ideal for non-native speakers of English as they are generally without the requisite 'internal grammar' that native speakers of English have.

*It is noted with interest that the central problem identified by the anti-grammar adherents is that grammar study has not and will not solve literacy problems, nor does it enhance the skills of our best students, as long as it is taught as a subject to be mastered (cf. Maxwell, 1997:298). Hence there is a need to differentiate between talking about grammar and applying grammar (Maxwell, 1997:298). In this respect there is a difference between teaching grammar as an academic subject and teaching grammar as a tool for accessing ideas in reading (cf. Maxwell, 1997:297). Thus it can be asserted emphatically that grammar is alive, something we use - not a subject to be taught (cf. Maxwell, 1997:306)*

According to Brown (as quoted in Webb and Kembo-Sure, 2000:68-69) being able to communicate effectively in a language presupposes at least the following types of communicative knowledge:

- (a) Grammatical competence - knowing how to combine the units of a language into grammatical wholes (words or sentences);
- (b) Textual competence - knowing how to combine sentences into effective texts or conversations / discourses;
- (c) Pragmatic competence - the ability to use language to perform a chosen function, as well as the ability to select the appropriate way of speaking in specific situations, and
- (d) Strategic competence - the ability to manipulate linguistic forms to achieve one's communicative intention.

It is evident from the above outline of the types of communicative knowledge that these competencies form a hierarchy. Thus, the success of the other competencies, namely, textual competence, pragmatic competence and strategic competence, is largely predicated on the first competence, that is, grammatical competence. In our view, therefore, since the grammar of a language is a conventional system of rules for making and putting together the expressions that belong to the language (Hurford, 1994:87), it cannot be presumed that second language learners would have knowledge of the structure and working of the English language without explicit instruction.

It needs to be reiterated at this stage that the objective of the study was to establish that using adjectival and adverbial information in legal texts does have an effect on the act of reading and interpretation and the resultant meaning on the

text. It is also worth noting that in this study, we advanced two hypotheses. Firstly, we assumed that using adjectival information in legal texts significantly enhances clarity and precision of the expression as mediated by the text. Secondly, we also assumed that reference both within the nominal group and the verbal group in legal texts is susceptible to further specification.

The data that obtain in the statute of the University of Zululand bear resemblance to the data obtainable in the statute of the University of Swaziland. The said resemblance is largely on the use of particular language structures such as the modal verbs, adjectival clauses and adverbial clauses, to mention but a few, in the construction of the statutory sentences. In almost all the statutory sentences of the two Universities analyzed above, modification and subordination or rather embedding form part of the essential techniques used by the writers to enhance the communicative potential of the sentences. The construction of the sentences in the two statutes favours the study's hypotheses as stated in chapter one and reiterated above.

As argued by Leedy and Ormrod (2005) one crucial step in a content analysis is to tabulate the frequency of each characteristic found in the material being studied. Following now, therefore, is an indication of the frequency of the occurrence of the modal verbs *may* and *must* within the structures of the adverbial clauses in chapter

four. Thus frequencies within the structure of the adverbial clauses of condition introduced by the subordinator *if* are as follows:

- (a) must
  - (b) must
  - (c) --
  - (d) --
  - (e) must
  - (f) --
  - (g) must
  - (h) must
- must = 63%.**  
**may = 0%**

Frequency of the occurrence of *must* and *may* within the structure of the adverbial clauses of condition introduced by the subordinator *unless*:

- (a) -
  - (b) may
  - (c) -
  - (d) may
  - (e) must
  - (f) must
  - (g) must
  - (h) must
- must = 43%**  
**may = 29%**

Frequency of *must* and *may* within the structure of the adverbial clauses of time:

- (a) -
  - (b) must
  - (c) -
  - (d) -
  - (e) -
  - (f) -
  - (g) must
  - (h) -
  - (i) must
- must = 33%**  
**may = 0%**

From the above frequencies of the use of the modal verbs *may* and *must* respectively, it is noticeable that the modal verb *must* is given prominence over the modal verb *may* in the construction of the sentences. The prominence afforded the modal verb *may* is accounted for in terms of the communicative intent which the modal verb has to fulfill, which is to place an obligation on the agents to act in a manner that would result in the realization of a specific purpose. This contrasts with the use of the modal verb *may* which merely grants permission without placing an obligation for the performance of certain acts.

Following is the frequency of the occurrence of restrictive and nonrestrictive adjective clauses introduced by the relative pronouns *who* and *whose*, in chapter five. For purposes of determining the frequency we shall indicate the occurrence of the adjective clause only by writing the relative pronoun that introduces the clause in question:

- (a) *who*, restrictive
- (b) *who*, nonrestrictive
- (c) *who*, restrictive
- (d) *who*, which both restrictive
- (e) *who*, restrictive
- (f) *who*, restrictive
- (g) *who*, restrictive
- (h) *who*, restrictive
- (i) *whose*, restrictive
- (j) *who*, restrictive
- (k) *who*, restrictive
- (l) *who*, restrictive
- (m) *who*, restrictive
- (n) *who*, restrictive

restrictive adjective clause = 93%  
nonrestrictive adjective clause = 7%

The frequency of the occurrence of the restrictive adjective clause (93%) is greater than the frequency of the occurrence of the nonrestrictive adjective clause (7%). This is understandable since in the context of legal provisions, specificity is crucial for the apportioning of liability and accountability as regards the performance of specific acts. The restrictive adjective clause thus helps determine or rather identify in no uncertain terms who did what and to whom.

The frequency of the occurrence of the modal verb *shall* in the existential sentences under investigation is noted in the expressions that follow.

- (a) There shall be a Chancellor.
- (b) There shall be a Vice-Chancellor.
- (c) There shall be a Pro-Vice-Chancellor.
- (d) There shall be a Registrar.
- (e) There shall be a Bursar.
- (f) There shall be a Librarian.
- (g) There shall be a Council. Frequency of shall = 100%
- (h) There shall be a Senate.
- (i) There shall be Faculties.
- (j) There shall be a Dean.
- (k) There shall be a Students' Representative Council.
- (l) There shall be a Finance Committee.
- (m) There shall be a Buildings and Tenders Committee.
- (n) There shall be an Academic and Administrative Staff Committee
- (o) There shall be the Institute of Post Graduate Studies.

Notably, the frequency of the occurrence of the modal verb *shall* in the existential sentences above is 100%. This percentage, in our view, is indicative of the writers' intent to impose an obligation that the proposition of existence be observed as intended.



Although, as noted earlier on, the data that obtain in the statute of the University of Zululand bear resemblance to the data obtainable in the statute of the University of Swaziland, there are, however, notable differences regarding sentence construction-types. The following are representative differences identified for purposes of exemplification which obtain in chapters four and five respectively:

- (a) Shorter and more direct constructions are characteristic of the University of Swaziland statute.
- (b) Relative clauses are almost absent in the University of Swaziland statute.
- (c) *'if'* and *'unless'* constructions are characteristic of the University of Zululand statute and not the University of Swaziland.
- (d) Adverbial clauses of time introduced by the subordinators: *while, as soon as, when, whenever, until, after* and *before* appear characteristic of the University of Zululand statute only.
- (e) Adjectival relative clauses introduced by *who, which* and *whose* appear characteristic of the University of Zululand statute and not the University of Swaziland statute.
- (f) There are more modifiers in the University of Zululand statute than in the University of Swaziland statute.
- (g) Existential sentences and the foregrounding of the NP are characteristic of the University of Swaziland statute.
- (h) Prepositional phrasing is characteristic of the University of Swaziland statute.

The differences in the way the statutes are written are crucial in the sense that the readability of the two texts is predicated on the reader's insight into the sort of structures the writers have employed in the sentence construction. The communicability of the texts under review is thus enhanced significantly by the use of subordinate structures available in the English language. Notwithstanding the apparent differences in the way the statutes are written, we uphold the view that they are both communicatively effective as they derive from different circumstances with specific interests. The differences in the construction types are, in our view, not to be attributed to the proficiency and use of English in the two countries where the statutes are obtainable, but to the different communicative functions to which these constructions are put use.

In our view, the use of shorter and more direct constructions characteristic of the University of Swaziland statute can be accounted for by the fact that good writers typically choose the simplest structure available to express their meaning and only elevate the structure up the scale of complexity if they want to punctuate what they have to say (cf. Good, 2002:255). The use of existential sentences exclusively characteristic of the University of Swaziland statute is to be understood as a device used by the writer(s) to achieve specific outcomes as these sentences make obligatory propositions of existence of designated entities. The existential sentences in chapter five are all instances of declarative clauses with deontic

meaning of the modal *shall* which is used to try and influence what happens rather than simply making an assertion. More specifically, therefore, the operative notion in deontic expressions, as is the case with the existential sentences under review, is obligation. Thus the prominence afforded the modal verb *shall* is accounted for in terms of the communicative intent which the modal verb has to fulfil, which is to place an obligation on the agents to act in a manner that would result in the realisation of a specific purpose.

As argued by Good (2002:242) it pays off for writers to be able to articulate their precise meaning. This, in our view, is best achieved by using restrictive adjectival relative clauses given their inherent element of specificity which restricts the scope of the subject noun phrase referent thus making it easier for the reader to identify with more precision that which is talked about. The use of adverbial clauses which give circumstantial information is significant since if we are describing an action in English, we may tell our interlocutor, not only who did what to whom (or what), but also when, how or why he or she did it (cf. Lyons, 1983:497).

In our analysis of the statutes of the University of Zululand and the University of Swaziland respectively, we established that language varies according to the activity in which it plays a part (Leech et al, 1982:10). We have also established that sentences with different structures have different communicative functions

and that one important property of a sentence is its communicative potential (Akmajian, 1995:229). This communicative potential of sentences, with specific reference to the statutory sentences under discussion, is, as already indicated earlier on, enhanced by using modification both within the nominal group and the verbal group. Thus, it is worth emphasizing that in enhancing the effectiveness and communicative potential of the statutory sentences in order to achieve clarity and precision of the expressions, modifying elements carrying adjectival and adverbial information have been put to use in the construction of the sentences. In consequence thereof, modification which employs non-nuclear constituents is accorded a central role in determining the effectiveness of the sentences whilst the acceptability of the sentence in terms of its grammaticality is determined solely by the nuclear constituents.

Notably, therefore, this role played by modification in legal texts refutes Burton-Roberts (1986), Brown and Miller (1988), Hurford (1994) and Downing and Locke's (2006) argument that modification appears to be largely an accessory function to reference and predication. Thus the argument that the occurrence of a modifier is never essential for the internal structure of a noun phrase and that a modifier can be easily omitted without affecting the acceptability of the noun phrase (Aarts and Aarts, 1988:63) is, in our view, not at issue. Our concern is not so much with the acceptability of both reference and predication within the structure of the

sentence. Rather, we are concerned with whether the communicative potential or effectiveness of the sentences makes it possible for the communicative intent to be realized as intended. Our analysis of the sentences in the statutes in question demonstrated that the necessary specification is contained in the modifier and that a modifier has the effect of explicitness and of specifying precisely that which is the point of information (Halliday and Hasan, 1997:96).

In our discussion of the motivation for the study in chapter one, we indicated that the majority of the University of Zululand students are monolingual with isiZulu as their mother tongue. Thus they do not need to use or speak English among themselves as they share the same language, isiZulu. We have also indicated that the majority of the current students have had poor schooling in the English language which is the medium that should be appropriated by individual students as a heuristic tool in the pursuit of knowledge. The following summary by Branford of the somewhat contradictory role and perception of the English language in South Africa best exemplify the linguistic situation that currently obtains at the University of Zululand:

- (a) First and foremost, English provides access to educational and job opportunities;
- (b) But it acts simultaneously as a barrier to such opportunities for those who lack it, or whose English is poor;
- (c) It acts integratively as a language of wider communication for people of different mother tongues;

- (d) But it acts divisively, or may do, between the members of English-speaking elites and those of less fortunate groups with little English, the 'wrong' kind, or none and
- (e) It is an important key to knowledge, science and world literature and current affairs (quoted in Horne and Heinemann, 2003:19).

Although Fromkin and Rodman (2007:335) argue that from a very early stage onward children have a grasp of the principles of phrase and sentence formation and the kinds of structure dependencies that obtain within the construction of a sentence, this argument does not extend to second language learners. Hence it is often difficult for adults to learn a second language without formal instruction, even when they have lived for an extended period in a country where the language is spoken (Fromkin and Rodman, 2007:16). In conclusion, therefore, if you lose your argument to the school board - as you most likely will - then teach yourself all that grammar you never learned in high school and now need to succeed in life (Good, 2002:419).

#### **Summary:**

In this chapter we established that one of the most conspicuous implications of the study is that in second language learning a thorough study of grammar should head the list of what needs to be taught in the language. Students will not gain mastery of basic grammar through osmosis. We have also argued that since the way a sentence is structured is crucial to meaning, mastery of English grammar - syntax or sentence structure is to be aimed for within the context of second language

learning and acquisition. In our view, therefore, it cannot be presumed that knowledge of the structure of the English language will be known by second language learners without overt instructional intervention.

## Chapter Seven

### Conclusion and Recommendations

#### Conclusion

In the foregoing chapters we have argued that it cannot be presumed that knowledge of the structure of the English language and how it is put to use in texts will be known to second language learners without overt instructional intervention. We have argued that this situation derives from the fact that the way we learn a second language after we have already learned the first differs from the way we learned the first one, because knowledge of our first language affects our learning of the new (cf. Freeborn, 1993:104). Thus lack of knowledge of sentential structure results in cognitive deficit defined as the limitations on mental efficiency required to process information in an additional language such as English. We have also argued that the majority of the University of Zululand students suffer from this cognitive deficit.

With specific reference to chapters four and five respectively, we have tried to argue that although modifiers are syntactically optional, they are nevertheless semantically significant as they play a role in the semantics of the construction by specifying exactly that which is talked about (cf. Halliday and Hasan, 1997:42). Therefore, we uphold as relevant and tenable, within the context of legal writing,



Lyons' (1983:76) argument that restrictive relative clauses (to mention but one type of modifier) are used characteristically to provide descriptive information which is intended to enable the addressee to identify the referent of the expression within which they are embedded. We have also argued that although the syntactic categories noun phrase and verb phrase are the basic structures in the English language, the communicative potential and effectiveness of the sentence is enhanced by using other syntactic categories which carry adjectival and adverbial information. Although arguments have been advanced that 'teaching about the structure of a language' is rarely the most effective way of developing communicative competence in a language (cf. Kennedy, 2003:3), we advocate the view that syntactic impediments in reading necessitate that there be consciousness-raising about how English is structured and used (cf. Kennedy, 2003:6).

### **Recommendations**

On the basis of the linguistic situation of the University of Zululand students whose cognitive abilities are impaired by syntactic impediments, we recommend the making of an inventory of syntactic structures which constitute common areas of difficulty for second language learners of English and have these syntactic structures taught to students in more overt ways. Thus a pedagogical grammar which concentrates on those aspects of grammar that are sources of

comprehension or produce difficulty for learners needs to be adopted and be used alongside of other approaches (cf. Kennedy, 2003). As defined by Kennedy (2003:3) a pedagogical grammar of English is a particular kind of descriptive grammar which draws attention to those parts of English that are important for second or foreign language learners of English because they are especially hard to learn or because they occur frequently. We recommend, therefore, that while frequency of use of particular items, as revealed by the analysis of the statutes, is one indication of usefulness, it should not be the only basis on which language teaching is planned and organized (cf. Kennedy, 2003:5). Instead, more importance and focus should be attributed to items that are crucial in conveying meaning and are appropriate to learners' needs within the context of their learning.

Thus, on the basis of our findings in the literature review in chapter two as well as in chapters four and five above - that modification and subordination or rather embedding form part of the essential techniques used by the writers of legal texts to enhance the effectiveness and communicative potential of the statutory sentences, we recommend that these essential techniques be foregrounded in the teaching of the English language, especially in a second language environment. Thus, the techniques to be foregrounded are the use of:

- (a) Adverbial clauses of condition introduced by the subordinator *if* (positive condition).

- (b) Adverbial clauses of condition introduced by the subordinator *unless* (negative condition).
- (c) Adverbial clauses of time introduced by the subordinators *while, as soon as, when, whenever, until, after, and before*.
- (d) Adjectival relative clauses introduced by the relative pronouns *who, which, whose* and *that*.
- (e) Adjectival prepositional phrases.
- (f) The modal verbs *may, must* and *shall*.
- (g) The Expletive Subject, *There*.

The linguistic structures enumerated above are, in our view, essential for learners studying legal texts as these linguistic structures aid in the reader's full comprehension of the texts he or she reads. It is therefore logical that in second language learning 'a thorough study of English grammar should head the list' of what needs to be taught in the language since students will not gain mastery of basic grammar through osmosis. Thus, in the context of second language learning and acquisition, whilst we recognize as important the foregrounding of the subject noun phrase and the predicate verb phrase (cf. Mkhathshwa, 2005) as these nuclear constituents determine the acceptability of the sentence in terms of its grammaticality, we nevertheless advance the proposition that subordination which employs non-nuclear constituents must be accorded a central role in determining the communicative effectiveness of the sentence.

We, therefore, recommend that since second-language learning usually takes place in situations of formal instruction and learners acquire the rules and units of the target language through guided instruction by a teacher, the language teacher should be an expert in the target language to be able to make informed judgements as regards the immediate aspects of English grammar that are a source of difficulty in students' act of reading legal texts (cf. Webb and Kembo-Sure, 2000:291).

It is worth reiterating that since most legal educators have neither the time nor the expertise in language teaching to train their students in the intricacies of legal communication (cf. Van der Walt and Nienaber, 2002:v), the language teacher must be adequately trained to be able to deal with the incredible complexity of the grammar of English (cf. Kennedy, 2003:5). This is in view of the fact that without adequate teacher training geared towards the moulding of teachers to help them acquire a knowledge base that is both theoretical and practical (cf. Webb and Kembo-Sure, 2000:309), the linguistic situation of the learners as it obtains now, will continue to affect their efficiency and sense of self-esteem, which in turn affect the way they present themselves and their ideas (Horne and Heinemann, 2003:19). Our recommendation in respect of adequate teacher training is attested to by Kennedy's (2003:3) argument that one part of being a professional includes

having as rich a knowledge as possible of the structure and use of the language that one teaches as a foundation for the teaching practice.

Also, it is worth reiterating that as syntax has an important role to play in legal expression and as any neglect on the part of the language teacher can have disastrous consequences and also the fact that the use of syntax in legal language is highly complex and specialized (Van der Walt and Ninaber, 2<sup>nd</sup> ed. 2002:vii), teachers of language must be given specific training in language teaching skills and not just general training (cf. Webb and Kembo-Sure, 2000:310).

Thus, notwithstanding the argument that much language teaching aims primarily at 'correctness', and is not geared towards providing learners with contexts in which they can use newly learnt structures appropriately (Webb and Kembo-Sure, 2000:308) and translate these acquired structures into communicative ability, we uphold the view that adequate mastery of the language by second language learners is a resource for effective learning (cf. Webb and Kembo-Sure, 2000:309).

## **Appendix A: Statute of the University of Zululand**

For purposes of precise referencing, the statute of the University of Zululand presented hereunder, has been reproduced in its entirety.

### **STATUTE OF THE UNIVERSITY OF ZULULAND (HIGHER EDUCATION ACT, 1997)**

#### **GENERAL PROVISIONS**

##### **Chancellor**

###### **Functions, term of office and removal from office**

- (1) The chancellor is the titular head of the University and must confer all degrees and award all diplomas, certificates and other distinctions on behalf of the University.
- (2) The chancellor holds office for a period of four years, or until he or she tenders his or her resignation in writing to the council, or for any other reason vacates his or her office before the expiry of his or her term of office.
- (3) The chancellor may be removed from office by resolution of at least two-thirds of the total number of members of the council present at the meeting on account of misconduct, incapacity to carry out his or her official functions, or on account of any other reason which the council may deem justifiable.
- (4) The resolution contemplated in subparagraph (3) may not be passed without providing the chancellor a reasonable opportunity to speak in his or her defence.
- (5) A retiring chancellor is eligible for re-election, but only for a second term of four years.

##### **Election**

- (1) The chairperson of the council or, in his or her absence, the rector must determine the date on which a meeting of the council must be held for the purpose of electing a chancellor, provided that such meeting must be held within 90 days after the office of chancellor becomes vacant.
- (2) At least 40 days before the date contemplated in subparagraph (1), the secretary to the council must give due notice to every member of the council of the date, place and time of the meeting contemplated in subparagraph (1) and must invite members of the council to submit nominations for the office of chancellor on a form approved by the rector, provided that any member is at liberty to supplement the information on the approved form by submission of additional information.
- (3) Any member of the council has the right to nominate a person, with his or her consent, for the office of chancellor, provided that such nomination is seconded, in writing, by another member of the council.
- (4) The completed nominations must reach the secretary to the council at least 21 days before the date of the meeting contemplated in subparagraph (1).
- (5) At least seven days before the date of the meeting contemplated in subparagraph (1), the secretary to the council must give due notice to every member of the council of the names and backgrounds of the duly nominated candidates.
- (6) (a) The chancellor must be elected to the office of chancellor at a meeting of the council by a majority of the members of the council holding office on the date of the meeting; and

- (b) the election of the chancellor must be by secret ballot.
- (7) For the purpose of electing a chancellor, the chairperson of the council has a deliberative vote only.
  - (8) Each member of the council has only one vote during each ballot, provided that there must be a series of ballots if no candidate gains a majority of votes contemplated in subparagraph 6 (a) in the first ballot.
  - (9) In each successive round of voting, the candidate who gains the least support in the previous ballot is eliminated as candidate.
  - (10) After the council has elected a chancellor, the chairperson of the council must announce the name of the new chancellor.

#### **Vacancy by effluxion of time**

5. At least 60 days before the office of chancellor becomes vacant owing to the expiry of the term of office of the chancellor contemplated in paragraph 3(2), the secretary to the council must give due notice thereof to every member of the council and the council must, as soon as possible, elect a new chancellor in accordance with the provisions of paragraph 4.

#### **Casual vacancy**

6. If the office of chancellor becomes vacant for any reason other than effluxion of time, the council must, as soon as possible, elect a new chancellor in accordance with the provisions of paragraph 4.

#### **Rector**

##### **Appointment**

7. (1) The rector is appointed for a period of five years, provided that this term may be renewed for a further period of five years.  
  
(2) When the post of rector becomes vacant, the vacancy must be advertised in at least three major newspapers, in which applications must be invited from suitably qualified applicants.  
  
(3) On the closing date for applications contemplated in subparagraph (2), the secretary to the council must compile a list of the applicants.  
  
(4) A short-listing committee consisting of two representatives of the council, one of whom must be the chairperson of the council or his or her nominee, two representatives of the senate, two representatives of the institutional forum and two representatives of the students must meet to compile a short list of applicants.  
  
(5) The short list must consist of not more than five candidates.  
  
(6) On the date determined by the secretary to the council, the council must meet to interview the candidates.

(7) The council must invite the following persons to advise it on the suitable candidate for appointment as rector-

(a) two vice-chancellors attached to other public higher education institutions;

(b) another person not attached to the University; and

(c) one member of the institutional forum.

(8) After the interviews have been held, voting by the council must take place.

(9) Voting must be by secret ballot and only members of the council are entitled to vote.

(10) The candidate who gains the absolute majority of the votes must be appointed rector.

(11) If there is no candidate with an absolute majority, voting must be repeated until a candidate emerges with an absolute majority.

#### **Functions of rector**

8. The rector is the chief executive and accounting officer of the University.

### **COUNCIL**

#### **Functions and composition of council**

9. (1) The council governs the University in terms of section 27 of the Higher Education Act and this Statute.

(2) The council consists of-

(a) the rector;

(b) not more than two vice-rectors, designated by the council;

(c) the administrative heads of the main campus and the Durban-Umlazi campus of the University;

(d) three members of the senate, elected by the senate in the manner contemplated in paragraph 31, one of whom must represent the Durban-Umlazi campus;

(e) one academic employee, other than members of the senate, elected by the academic employees in the manner contemplated in paragraph 29(1);

(f) one employee other than an academic employee elected by the non-academic employees in the manner contemplated in paragraph 29(2);



(g) two members of the students' representative council, one of whom must represent the Durban-Umlazi campus, elected by the students' representative council in the manner contemplated in paragraph 32;

(h) not more than two persons co-opted by the council on account of their experience and expertise;

(i) five persons appointed by the Minister;

(j) three persons elected by the convocation in the manner contemplated in paragraph 54;

(k) one person appointed by each of the three local authorities within the boundaries of which the campuses of the University are situated;

(l) two persons elected by the University of Zululand Foundation to represent the donors of the University;

One person appointed by the Premier of the Province of KwaZulu-Natal; and

(n) not more than five persons elected or designated by such body or bodies as determined by Statute.

(3) The persons referred to in subsection 2(h), (i), (j), (k), (l), (m) and (n) must not be employees or full-time undergraduate students of the University.

(4) A member of the council, other than a member contemplated in subparagraphs (2) (a), (b), (c), and (g), holds office for a period of four years unless he or she submits his or her resignation in writing to the council or vacates his or her office for any other reason before the expiry of such period.

(5) The term of office of members contemplated in subparagraph (2) (g) is for a period of one year.

(6) Should members cease to be members of the constituency, which the persons represent, their membership of the council must also cease.

#### **Election of chairperson and vice-chairperson**

10. (1) The council must elect a chairperson from among its members, who must each hold office for a period of four years, or for such shorter period as he or she may be a member of the council.

(2) Nominations for the chairperson or vice-chairperson of the council must be given in writing to the secretary to the council on a date determined by him or her.

(3) Each nomination must be signed by at least three members of the council and countersigned by the nominee to denote his or her acceptance of the nomination.

(4) The rector must act for the duration of the election of a chairperson as acting chairperson.

(5) If more than one candidate is nominated for one of the offices, voting is by secret ballot.

(6) A candidate may only be elected to the office of chairperson or vice-person by a majority of the members present.

(7) If no candidate receives a majority of votes, successive rounds of voting are held.

(8) In each successive round of voting, the candidate receiving the least votes in the previous round of voting is eliminated as a candidate.

(9) If a vacancy occurs in the office of the chairperson or the vice-chairperson for any reason, the provisions of subparagraphs (1) to (8) apply with the necessary changes to the filling of such vacancy.

(10) The person elected in terms of subparagraph ((9) holds office for the unexpired term of office of his or her predecessor, provided he or she does not exceed his or her own term of office as a member of the council.

(11) If the chairperson is absent from any meeting of the council, the vice-chairperson must preside at such meeting.

(12) While the vice-chairperson acts as chairperson, he or she is vested with all the powers and performs all the functions of the chairperson.

(13) Whenever both the chairperson and vice-chairperson are absent from a meeting of the council, the members present must elect a person from among themselves to preside at the meeting.

(14) The chairperson or the vice-chairperson of the council must not be an employee or student of the University.

#### **Secretary to council**

11. (1) The council must elect a secretary to the council from among its members by means of a secret ballot and a majority of members present at an ordinary meeting of the council.

(2) The secretary must hold office for four years, or for such shorter period as he or she may be a member of the council.

(3) The secretary may be re-elected at the expiration of his or her term of office.

(4) The secretary must-

(a) act as secretary to all committees and joint committees of the council;

(b) keep the minutes of meetings of the council and its committees, and distribute copies of the minutes together with the agenda and notices for the next meeting of the council and its committee, as the case may be; and

(c) keeps a register of resolutions adopted by the council, and another of resolutions adopted by its executive committee.

(5) The council may designate any employee to assist the secretary or to act in his or her place.

#### **Number of meetings of council**

12. The chairperson must convene a meeting of the council at least twice in each semester at the seat of the University, or at such other place as he or she may determine.

#### **Quorum for and procedure at meetings of council**

12. (1) Except as otherwise provided in this Statute, all acts or matters authorised or required to be done or decided by the council and all matters that may come before it for consideration must be done or decided by a majority of the members present at such meeting, provided that the number of members present at such meetings must be not less than one-half plus one of the total number of members holding office on the date of a meeting.

(2) The council may invite persons who are not members of the council to attend meetings, provided that such persons may take part in the discussion, but may not vote.

#### **Notice of meetings of council**

13. At least seven days before the date determined by the council for an ordinary meeting, the secretary must give due notice in writing to each member of all matters to be dealt with at such a meeting, stating the time and place of such meeting.

#### **Notice of motion**

14. (1) Notice of any motion for consideration must be in writing and must be lodged with the secretary at least 21 days before the date of an ordinary meeting, provided that any matter of an urgent nature may, without prior notice, with the leave of the chairperson and a majority of the members present, be considered at such meeting.

(2) Except as approved by a majority of members who actually hold office at the time of voting, no motion which has been rejected by the council must be placed before it again within a period of six calendar months from the date of such rejection.

#### **Amendment or rescission of previous resolution**

15. A motion to amend or rescind a previous resolution of the council must be carried by at least two-thirds of the members holding office on the date of voting.

#### **Minutes of meetings**

16. The first act of an ordinary meeting, after it has been constituted, must be to read and confirm by the signature of the chairperson the minutes of the last preceding ordinary meetings and of any special meeting held subsequently, provided that the meeting may take the minutes as read if a copy thereof was previously sent to every member of the council, provided further that objections to the minutes of a meeting must be raised and dealt with before confirmation of the minutes.

#### **Register of resolutions of council**

17. The secretary to the council must keep a complete register of council resolutions adopted in terms of this Statute and all members of the council must have access to such register.

#### **Discussion of motions**

18. (1) A member of the council may not, without leave of the meeting, speak more than once on a motion or any amendment thereof, but the proposer of any motion or an amendment has the right of reply.
- (2) A motion or amendment must be seconded, and, if it is so directed by the chairperson, be in writing, and no motion or amendment may be withdrawn without the consent of the proposer, the seconder and the meeting.

#### **Voting**

19. (1) Subject to the provisions of paragraph 4(7), the chairperson has a deliberative vote on every matter and, in the event of an equality of votes, and also a casting vote.
- (2) If it is so decided by the meeting, the number of members voting for or against any motion must be recorded and at the request of any member the chairperson must direct that the vote of such member be recorded.
- (3) Where at least two-thirds of all the members of the council have reached agreement on a matter referred to them by letter or by telefax by the chairperson without convening a meeting, and have conveyed their resolution by letter or telefax, such resolution is equivalent to a resolution of the council and must be recorded in the minutes of the following ordinary meeting.
- (4) The views of a member of the council who is unable to attend a meeting may be submitted to the meeting in writing, but may not count as a vote by such a member.
- (5) No member of the council may participate in the discussion of, or vote on a matter in which he or she has direct or indirect pecuniary, financial or other material interest, unless he or she first discloses the extent of his or her interest and obtains the permission of the meeting to participate in the discussion or vote on the matter or both.

(6) If a member of the council without the permission of the council participates in the proceedings of the council in connection with the matter in which the member does have a direct or indirect pecuniary, financial or other material interest, voting by members of the council is invalid.

#### **Ruling by chairperson**

20. The ruling of the chairperson on a point of order or procedure is binding unless immediately challenged by a member, in which event such ruling must be submitted without discussion to the meeting and the decision of the meeting is final.

#### **Drafting, amending or repealing of Statute or Rule**

21. A motion to draft, amend or repeal a Statute or Rule must be adopted by at least two-thirds of the members holding office on the date of the meeting.

#### **Extraordinary meetings of council**

22. (1) An ordinary meeting may be called by the chairperson at any time and must be called by him or her at the written request of at least five members, the object of the meeting being stated in the request.

(2) At least seven days' notice of an ordinary meeting must be given.

(3) Except as approved by such meeting, no business other than that for which he meeting has been convened may be transacted at such meeting.

#### **Emergency meetings of council**

23. (1) An emergency meeting may be called by the chairperson at any time after due consultation with the rector, provided that members must be given at least 24 hours' notice of such meeting, provided further that notice may be given in any manner deemed expedient in the circumstances.

(2) Members must be advised of the object of the meeting and no business other than that of which notice has been given to the members may be transacted at such meeting.

#### **Executive committee of council**

24. (1) The council must establish a committee known as the executive committee, and the provisions of paragraphs 13 to 24 apply with the necessary changes to the meetings of such committee.

(2) The executive committee consists of-

(a) the chairperson of the council;

(b) the rector and the vice-rectors;

(c) three members of the council, one of whom should be a representative of the senate on the council and two of whom should not be employees; and

(d) such other members as the council may decide,

provided that at least 60 per cent of the members must be persons who are not employed by or students of the University.

(3) The committee must-

(a) act on behalf of the council in an emergency with subsequent reporting to the council;

(b) finalise appointments and promotions in all existing posts up to and including the rank of professor or its equivalent except in those cases delegated to the rector;

(c) finalise all applications for long or study leave on behalf of the council where substitutes are required;

(d) investigate, deal with and come to a finding in staff disciplinary cases without the right of imposing penalties;

(e) finalise applications for early retirement;

(f) confirm or extend probationary periods except in cases leading to ultimate discharge;

(g) finalise personnel disciplinary cases with the exception of imposing a penalty;

(h) define policy in regard to the allocation of bursaries and loans to students;

(i) consider all recommendations of the senate and committees before submitting them to the council with its recommendations for a decision except matters of urgency determined by the rector or the designated vice-rector in the absence of the rector;

(j) refer any matter arising from the minutes of meetings contemplated in subparagraph (i) back to the senate or any committee;

(k) refer any matter which it deems necessary in the interest of the University to the senate or any committee;

(l) scrutinise the University budget on behalf of the council;

(m) finalise applications for recognition by student societies;

(n) award the annual travel and research grants of the council;

(o) act as Board of Trustees for the Staff Group Life Insurance Scheme; and

- (p) deal with any other matter delegated by the council from time to time.

#### **Vacancy by effluxion of time**

- 25. At least three months before the expiry of the term of office of any member of the council, the secretary must give notice in writing to whoever appointed or elected such member, so that such person or body may fill the vacancy.

#### **Vacating of office by members of council**

- 26. (1) The office of a member of the council becomes vacant if a member-
  - (a) dies;
  - (b) resigns from office by writing under his or her hand addressed to the chairperson of the council;
  - (c) is absent from three consecutive meetings of the council without apology for absence from the meetings having been made and such apologies having been accepted by the council;
  - (d) is declared insolvent by a court of law;
  - (e) is convicted of an offence and is sentenced to imprisonment without the option of a fine;
  - (f) is convicted of an offence involving dishonesty; or
  - (g) Becomes a continued treatment patient in an institution for mental health.
- (2) Membership of the council automatically terminates in the event of a member of the council, either vacating or being transferred for whatever reason from the constituency, for which he or she was elected, appointed or designated to another constituency.
- (3) The membership of a council member who is not an employee or a student of the University immediately terminates should such a member be appointed as an employee of the University.
- (4) Subject to the disciplinary procedure of the University, if an employee or a student member is dismissed, suspended, expelled, demoted, or his or her services are terminated for whatever reason by the University, the membership of such member must automatically terminate.

#### **Casual vacancies**

27. If any member dies or resigns or vacates office for any other reason than effluxion of time, the secretary must give notice in writing to whoever appointed or elected such member, so that such person or body may fill the vacancy.

#### **Election of representatives of employees on council**

28. (1) The academic employees of the University must elect one representative to represent them on the council.

- (a) The representative must be an academic other than a member of the senate.
- (b) The election must take place by secret ballot at a meeting of the academic employees convened by the secretary for that purpose and the candidate who obtains the majority of votes is duly elected.
- (c) Candidates for election must be nominated and nominations must reach the secretary at least 14 days before the date of the election, and no person must be elected unless he or she has been nominated in writing by two members of the academic employees and the nominee has consented to such nomination in writing.
- (d) Nominations must be invited by the secretary to the council as soon as there is a vacancy either by effluxion of time or because the representative has vacated his or her office.

- (2) The employees other than academic employees of the University must elect one representative to represent them on the council.

(a) The election must take place by secret ballot at a meeting of employees other than the academic employees convened by the secretary to the council for that purpose, and the candidate who obtains the majority of the votes is duly elected.

(b) Candidates for election must be duly nominated in writing by at least two employees who are not academic employees, and the nominations must reach the secretary to the council at least 14 days before the date of the election.

(c) No person must be regarded as duly nominated unless he or she has been nominated by members in writing, and he or she has consented to such nomination in writing.

#### **Designation of representatives of certain bodies as members of council**

29. Subject to the provisions of paragraph 9(2) (n), the following bodies must designate or elect a representative on the council-

- (a) one person elected by the principals in the region to represent pre-tertiary institutions, provided that if there is no organization of principals the council may designate a specific principal to be the representative;



- (b) one person elected by the rectors of colleges of education in the region which are either affiliated to or have a close relationship with the University, provided that if there is no organization of rectors the council may designate a specific rector to be on the council;
- (c) two persons representing parents of the students elected by parents at a meeting convened for that purpose, provided that if a person stops being a parent of a student before the expiry of four years, a new representative must be elected for the remainder of the period; and
- (d) one representative designated by the Department of Education of the Mpumalanga Province.

#### **Representatives of senate on council**

- 30. (1) When it becomes necessary for the senate to elect its representatives as members to the council as contemplated in section 27(4) (d) of the Higher Education Act, such representatives are elected by secret ballot and a majority of the members of the senate present at an ordinary meeting of the senate.
- (2) No person may be elected unless he or she has been nominated in writing by two members, and he or she has confirmed by his or her signature that he or she accepts the nomination.
- (3) The signed nomination contemplated in subparagraph (2) must reach the secretary to the senate at least 14 days before the date of the meeting.
- (4) If a member referred to in subparagraph (1) for any reason vacates his or her office, the provisions of subparagraphs (1) to (3) apply.

#### **Representatives of students on council**

- 31. (1) Whenever it is necessary for students to be elected as members of the council as contemplated in section 27(4) (f) of the Higher Education Act, the secretary to the council notifies the president of the students' representative council accordingly.
- (2) The students' representative council must elect two of its members to the council by means of a secret ballot and a majority of the members present at an ordinary meeting of the students' representative council.
- (3) The president of the students' representative council submits the names of the members elected to the secretary to the council.

### **SENATE**

#### **Composition of senate**

- 32. The members of the senate referred to in section 28(2) of the Higher Education Act are-

- (a) the rector;
- (b) the vice-rector or vice rectors;
- (c) not more than two members of the council elected by the council;
- (d) the professors;
- (e) the senior lecturers who are heads of departments;
- (f) one lecturer from each faculty, elected by the faculties from time to time and designated by the council after consultation with the senate;
- (g) the University librarian;
- (h) the directors of centers, institutes or units which have an academic function;
- (i) such other members of the administrative employees, not exceeding three in number, as the council may from time to time on the recommendation of the senate designate for the purpose; and
- (j) three students elected by the students' representative council, one of whom must represent the Durban-Umlazi Campus.

#### **Terms of office of members of senate**

- 33. (1) The members of the senate referred to in paragraph 33(c) hold office for the period during which they are members of the council.
- (2) Professors and senior lecturers who are members of the senate and referred to in paragraphs 33(d) and (e), directors of centres referred to in paragraph 33(h) and the University librarian referred to in paragraph 33(g) hold office as long as they are employed in that capacity.
- (3) The term of office of members contemplated in paragraph 33(j) is for a period of one year.

#### **Functions of senate**

- 34. (1) The functions of the senate include-
  - (a) the superintendence and regulation of the instruction in the various faculties, departments, lecturers and classes of the University; and
  - (b) The organization and control of the curricula and examinations of the University.
- (2) The senate must from time to time submit to the council-

(a) Reports on the work of the senate;

(b) Such recommendations regarding matters of importance to the University as it may deem expedient, including financial affairs; and

(c) Recommendations regarding matters referred to it by the council.

(3) The senate is empowered to-

(a) Determine, subject to the approval of the council, the conditions on which degrees, diplomas or certificates are obtained and to decide which persons have satisfied the said conditions;

(b) Superintend and control all examinations conducted by the University in accordance with such Rules as may be recommended from time to time by the senate to the council for this purpose and made by the council;

(c) Appoint internal examiners for examinations and recommend to the council the external examiners and moderators to be appointed for the University's examinations;

(d) Recommend to the council which departments there should be in the various faculties of the University and who should be designated head of each department;

(e) Decide which professors and lecturers are to be members of each of the boards of faculty of the University referred to in paragraph 44;

(f) decide, after consultation with the board of the faculty concerned, which person should be appointed dean of such faculty for a period of two years in accordance with the Rules as made by the council, provided that should a casual vacancy occur for any reason, it must be filled in terms of this subparagraph for the unexpired portion of the term of office of the dean who has vacated the office, provided further that only a professor who is a member of the senate and head of a department may be appointed dean of a faculty;

(g) Recommend to the council conditions for the award and tenure of scholarships or prizes at the disposal of the University, and to recommend to the council the persons to whom such scholarships or prizes should be awarded from time to time;

(h) Determine from time to time to what extent a holder of any scholarship has complied with the conditions on which such scholarship was awarded;

(i) make recommendations to the council on the establishment and control of institutes and canthers, and to make arrangements for the work of research officers;

(j) Take, subject to the provisions of the Statute and Rules, such measures as may be necessary for the proper exercise of its powers and discharge of its duties;

(k) Recommend to the council the establishment of an academic society at the University;

(l) Recommend to the council the revocation of a degree or other qualification obtained in an improper manner;

(m) Decide which portions of separate academic years during which a student attended a course are deemed to be equivalent to an academic year; and

(n) Discuss and recommend the annual budget to the council.

#### **Representatives of students on senate**

35. (1) Whenever it is necessary for students to be elected as members of the senate, as contemplated in section 28(2)(f) of the Higher Education Act and paragraph 33(j) of the Statute, the secretary to the senate notifies the president of the students' representative council accordingly.

(2) The students' representative council must elect three of its members to the senate by means of a secret ballot and a majority of the members present at an ordinary meeting of the students' representative council.

(3) The president of the students' representative council submits the names of the members elected to the secretary to the senate.

(4) If a member contemplated in subparagraph (1) for any reason vacates his or her office, the provisions in subparagraph (1) to (3) apply.

#### **Representatives of council on senate**

37. (1) Whenever it is necessary for the council to elect its representatives as members to the senate, as contemplated in paragraph 33(c) of the Statute and in section 28(2) (e) of the Higher Education Act, such representatives are elected by secret ballot and a majority of the members of the council present at an ordinary meeting of the council.

(2) No person may be elected unless he or she has been nominated in writing by two members and he or she has confirmed by his or her signature that he or she accepts the nomination.

(3) The signed nomination contemplated in subparagraph (2) must reach the secretary to the council at least 14 days before the date of the meeting.

(4) If a member referred to in subparagraph (1) for any reason vacates his or her office, the provisions in subparagraphs (1) to (3) apply.

#### **Election of chairperson and vice-chairperson**

38. The provisions of paragraph 10(1) to (13) relating to the election of a chairperson and a vice-chairperson by the council apply, with the necessary changes, to the election of a chairperson and a vice-chairperson by the senate.

#### **Secretary to senate**

39. (1) The senate must elect a secretary to the senate from among its members by means of a secret ballot and a majority of members present at an ordinary meeting of the senate.

(2) The secretary must hold for four years, or for such shorter period as he or she may be a member of the senate.

(3) The secretary may be re-elected at the expiration of his or her term of office.

(4) The secretary to the senate must-

(a) Act as secretary to all committees and joint committees of the senate;

(b) Keep the minutes of meetings of the senate and its committees and distribute copies of the minutes together with the agenda and notices for the meeting of the senate; and

(c) Keep a register of resolutions adopted by the senate and another of resolutions adopted by its executive committee.

(5) The council may designate on the recommendation of the senate an employee to assist the secretary to the senate or to act in his or her place.

#### **Number of meetings of senate**

40. The chairperson convene a meeting of a senate at least twice in each semester at the seat of the University, or at such other place as may be determined by the executive of the senate.

#### **Quorum and procedure at meetings of senate**

41. (1) One-third of the members of the senate holding office on the date of a meeting constitute a quorum.

(2) In the absence of the chairperson or the vice-chairperson at any meeting of the senate, the member present must elect one of their numbers to preside at such meeting.

(3) A written notice must be issued by the secretary to each member of the senate at least three working days before an ordinary meeting, setting forth the time, date and place of such meeting and the matters to be dealt with.

(4) (a) An extraordinary meeting may be called by the chairperson at any time and must be called by him or her at the request in writing of at least one-fifth of the members of the senate holding office, the object of the meeting being stated in the request.

(b) Not less than 24 hours notice must be given of such meeting.

(c) Except as approved by the meeting, no business other than that of which notice was given may be transacted at such meeting.

(5) (a) The first act of an ordinary meeting, after it has been constituted, must be to read and confirm by the signature of the chairperson the minutes of the last preceding ordinary meeting and of any extraordinary meeting held subsequently, provided that any objection to the minutes must be raised and resolved before such confirmation.

(b) The meeting may take the minutes as read if a copy thereof was previously sent to each member.

(6) A member may not, without the leave of the meeting, speak more than once to a motion or any amendment thereof, but proposer of any motion or any amendment has the right to reply.

(7) (a) Except as otherwise provided in this Statute, all matters must be decided by a majority of votes of the members present and voting.

(b) The chairperson must have a deliberative vote on every matter and, in the case of an equality of votes, also a casting vote.

(c) Whenever the chairperson so rules, voting must take place by a secret ballot.

(8) If it is so decided by the meeting, the number of the members voting for or against any motion must be recorded in the minutes, and at the request of any member, the chairperson must direct that the votes of such member be recorded.

(9) A motion or an amendment must be seconded and, if it is so directed by the chairperson, be in writing, and no motion or amendment may be withdrawn without the consent of the meeting.

(10) The ruling of the chairperson on any matter of order or procedure is binding unless immediately challenged by a member in which event such ruling must be submitted without discussion to the meeting, whose decision is final.

(11) Notice of any motion to make, or rescind a Statute or Rule, or to amend or rescind a previous resolution of the senate, must be given at a meeting previous to that at which it is to be moved, provided that no such notice is required if the proposal to make, amend or rescind a Statute or Rule or to amend or rescind a previous resolution of the senate, has been made by a committee of the senate and if the minutes of the meeting of the committee at which the proposal was made were issued in time to have been received by the members of the senate at least three working days before the meeting at which it is to be discussed.

#### **Executive committee of senate**

42. (1) The senate may by resolution establish a committee known as the executive committee, and the provisions of paragraph 41 apply with the necessary changes to the meetings of such committee.

(2) The executive committee of the senate consists of-

- (a) The rector;
- (b) The vice-rector;
- (c) The deans of the faculties;
- (d) The senate's representatives on the council;
- (e) The secretary to the senate.

(3) The chairperson of the senate, and in his or her absence the vice-chairperson, acts as a chairperson of the committee.

(4) The executive committee must meet on the dates appearing in the University calendar on such other dates as are determined by the secretary to the senate.

(5) The executive committee of the senate is empowered to-

- (a) Act on behalf of the senate in cases of the urgency with subsequent reporting to the senate.
- (b) Advise the rector concerning the suspension of classes;
- (c) Make recommendations to the council about long or study leaves of the academic employees where substitutes are required;
- (d) Consider and co-ordinate all recommendations and resolutions from committee of the senate for submission to the senate with its own recommendations;
- (e) Refer any recommendation or resolution from committee of the senate in terms of subparagraph (d) back to any committee;
- (f) Recommend to the senate who should be appointed as external examiners;
- (g) Finalize the academic time-table in terms of powers delegated by the senate;
- (h) recommend subject groupings to the senate;
- (i) make recommendations to the planning committee concerning academic and financial planning of the University;
- (j) co-ordinate the annual reports of the senate committees;
- (k) make recommendation to the senate on the academic Rules;
- (l) finalize the award of the senate's overseas research and travel grants;
- (m) Finalize the award of bursaries and prizes as delegated by the senate and the council; and

(n) Scrutinize the minutes of the boards of faculty.

#### **Boards of faculty**

43. The senate must establish committees to regulate the activities of the various faculties of the University, and following provisions must apply to such committees hereinafter called boards of faculty-

(a) Members of the faculty are designated by the senate as members of the board of faculty;

(b) a board of faculty ordinarily meets at such times and places as determined by the senate;

(c) extraordinary meeting of a board of faculty, of which not less than 24 hours notice must be given, may be called by the dean at any time at his or her own instance, and must be called by him or her at the written request of at least three members of the board of faculty ;

(d) the times and places of extraordinary meetings are determined by the dean in consultation with the secretary to the senate;

(e) one-third of the members of the board faculty constitutes a quorum at a meeting, provided that during the University vacation, three members constitute a quorum, provided further that the resolutions passed at the meetings during the University vacation must be confirmed at the next ordinary meeting of the board of faculty;

(f) In the absence of the dean or vice-dean from a meeting of a board of faculty, the members present must elect a chairperson for that meeting among their number.

#### **Functions of boards of faculty**

44. (1) A board of faculty must make recommend to the senate on the syllabuses, courses of study and examinations so far as the faculty are concerned and upon such and other matters that concern the faculty and such matters as the senate may refer to it.

(2) Aboard of faculty must report to the senate the names of candidates whom it considers to have satisfied the conditions for the degree, diplomas or certificates in the faculty.

#### **Joint committees of council and senate**

45. (1) Except as otherwise provided in this Statute, all acts, matters or things authorized or required to be done or decided by joint committees of the council and the senate established under section 29 of the Higher Education Act, and all matters



that may come before them, must be done or decided by a majority of the members present at any meeting provided that the number at any meeting must not be less than one-half plus one of the members appointed to the committee concerned.

#### **CONVOCATION**

##### **Vacating of office by members of senate**

46. (1) The convocation must elect a secretary to the convocation from among its members by means of a secret ballot and a majority of members present at an ordinary meeting of the convocation.

(2) The council may appoint an employee of the University to assist the secretary or to act in his or her place.

(3) The secretary of convocation must keep the roll of the convocation and a member must be required to register his or her name and address with the secretary and notify him or her of any change of address.

(4) The roll of the convocation is evidence that a person whose name appears therein at the time of an election by the convocation is entitled to vote thereat, and that a person whose name does not appear therein is not so entitled.

##### **President and vice-president of convocation**

48. (1) The president and vice-president of the convocation must be elected by the convocation from among its own members at a annual meeting and must hold office from the close of the meeting at which they are appointed until the close of the second annual meeting thereafter.

(2) In case of death or resignation of a president, the vice-president must act as president until a successor has been elected at the next meeting of the convocation to hold office for the unexpired term of office of his or her predecessor.

##### **Election of president and vice-president of convocation**

49. The provisions of paragraph 10 relating to the election of a chairperson and vice-chairperson by the council apply, with the necessary changes, to the election of a president and a vice-president of the convocation.

##### **Annual meeting of convocation**

50. (1) the convocation must hold an annual meeting which must be convened by the secretary.

(2) The secretary must give due notice of such meeting to every member at least eight weeks before such meeting.

(3) Notice of any motion or matter for discussion at a meeting must be given to the secretary in writing one month before the date determined for such meeting.

#### **Extraordinary meetings of convocation**

51. Extraordinary meetings of the convocation may be called by the president at any time and must be the secretary on receipt of a written request signed by at least 100 members stating, in the form of specific motions, the matters to be considered at such meeting, and must be convened within two months of receipt of such request.

#### **Notice of meetings except annual meeting**

52. The secretary must give due notice of a meeting of the convocation, except the annual meeting, to each member at least 14 days before the day determined for such meeting, stating the date, place and time and the dealt with at such meeting.

#### **Quorum and procedure at meetings of convocation**

53. (1) One hundred members form a quorum, but if a meeting is adjourned owing to the lack of a quorum, a special meeting must be convened subsequently, at which the members present must form a quorum.

(2) Notwithstanding the absence of a quorum at an annual meeting, the meeting may proceed to the election of office-bearers and to other formal business, provided that no motions may be put to such meeting.

(3) The first act each meeting after its constitution by the reading of the notice calling such meeting must be to read and confirm by the signature of the president the minutes of the last preceding ordinary meeting and of any other meetings held subsequently, provided that any objections to the minutes must be raised and dealt with before such confirmation.

(4) A member may not without the leave of the meeting speak more than once to a motion or any amendment thereof, but the proposer of any motion or an amendment must have the right of reply.

(5) All matters must be decided by a majority of votes of the members present and voting.

(6) The president has a deliberative vote on every matter and in the case of an equality of votes, also a casting vote.

(7) If it is so decided by the meeting, the number of member voting for or against any motion must be recorded in the minutes, and at the request of any member the president must direct that the vote of such member be recorded.

(8) a motion or amendment must be seconded, and, if it is so directed by the president, be in writing and no motion or amendment may be withdrawn without the consent of the meeting.

(9) The president may allow any motion of which due notice has not been given in terms of paragraph 52 to be discussed and action to be taken thereon, provided that it is unopposed.

(10) The ruling of the president on any matter of order or procedure is binding unless immediately challenged by a member, in which case it must be submitted without discussion to the meeting, whose decision is final.

#### **Representatives on council**

54. Whenever it becomes necessary for the convocation to elect a member to the council as contemplated in paragraph 9(2) (j), the vacancy must be filled by the convocation in the following manner-

(a) In the case of a casual vacancy on the council which must be filled by the convocation, the necessary to the convocation must post a written notice to every member of the convocation within 30 days from the occurrence of such vacancy, inviting the written nomination of a person to be elected to fill such vacancy, which nomination must be signed by at least five members and by the nominee to indicate his or her acceptance of the nomination.

(b) In the case of the vacancy occurring by efflux ion of time, the secretary to the convocation must post a notice to every member of the convocation at least three months before the expiry of the term of office of such member, inviting the nomination in writing of a person to be elected as a member of the council, which nomination must be signed by at least five members and by the nominee to indicate his or her acceptance of the nomination.

(c) Nomination must be lodged with the secretary to the convocation within six weeks of the date of the notice, and the names of the persons nominated must be published by the secretary to the convocation three times at least one daily news paper published in Zulu and one published in English.

(d) If the number of persons nominated does not exceed the number of vacancies, the persons so nominated must be considered duly elected and the secretary to the convocation must announce the names of the members.

(e) If the number of persons nominated exceed the number of vacancies, the secretary to the convocation must as soon as is feasible after the publication of the names the persons nominated, post to every member a printed voting paper

containing the names of the candidate arranged in alphabetical order, which voting paper must be returned by a voter in the special envelope provided for this purpose so as to reach the secretary to the convocation not later than a date specified on the voting paper, which date must not be earlier than 21 days after the date of issue thereof.

(f) Any voting paper which is not completed in accordance with the instruction thereon is invalid; and

(g) The secretary to the convocation must act as returning officer and must be assisted by two scrutinizers appointed by the president, or, in his absence, by the rector.

#### **Submission of resolutions to the council and senate**

55. A copy of all resolutions of the convocation and a statement of all other matters the convocation may decide upon, duly certified by the president and by the secretary, must be sent to the chairperson of the council for the information of the council, and to the chairperson of the senate for the information of the senate.

#### **DONORS**

##### **Representatives of donor's council**

56. (1) A person who donates to the University, a donation of not less than R500 or more than one donation of not less than R500 in total, which donation or donations, as the case may be, is accepted by the council, is a member of the donors as referred to in paragraph 9(2) (i), and entitled to be elected as a member of the council as contemplated in that subparagraph.

(2) The provision of paragraph 54 apply, with the necessary changes, to the election of a member of the council contemplated in paragraph 9(2) (i) by the University of Zululand Foundation.

#### **INSTITUTIONAL FORUM**

##### **Membership**

57. (1) The institutional forum of the University as contemplated in section 31(2) of the Higher Education Act consist of-

(a) Two representatives of the management;

(b) Two representatives of the council;

(c) Two representatives of the senate;

- (d) Two representatives of academic employees;
- (e) Two representatives of employees other than academic employees;
- (f) Two representatives of women employed at the University;
- (g) Two representatives of students; and
- (h) Two representatives of the recognized union.

(2) The representatives contemplated in subparagraph (1) must be elected by the various constituencies at a general meeting or at a meeting convened for that purpose.

(3) Representatives on the institutional forum must comply with the requirement imposed by the function they have to perform, and no person competent to be a member of the constitutional forum if he or she has been found guilty of miss conduct.

(4) The term of office of members of the constitutional forum is two years.

(5) A member of the institutional forum must vacate office if he or she-

(a) resigns;

(b) is absent from three consecutive meetings of the institutional forum without a valid excuse;

(c) is insolvent;

(d) is incapable of performing his or her functions;

(e) is found guilty of misconduct; or

(f) is convicted of an offence and is sentence to imprisonment without the option of a fine.

(6) If a vacancy occurs, the secretary to the institutional forum must request the constituency concerned to elect a replacement to hold office for the remainder of the term.

#### **Election of chairperson and vice-chairperson**

58. The provisions of paragraph 10 (1) to (13) relating to the elections of a chairperson and vice-chairperson by the council apply, with the necessary changes, to the election of the chairperson and a vice-chairperson by the institutional forum.

### **Secretary to institutional forum**

59. The provisions of paragraph 39 relating to the secretary to the senate apply, with the necessary changes, to the secretary to the institutional forum.

### **Number of meetings of institutional forum**

60. The chairperson must convene a meeting of the institutional forum at least twice in each semester at the seat of the University or at such other place as he or she may determine.

### **Quorum and procedure at meetings of institutional forum**

61. (1) a quorum consists of half of the total number of members plus one holding office on the date of the meeting.

(2) In the absence of the chairpersons and the vice-chairperson at any meeting of the institutional forum, the members present must elect one of their numbers to preside at such meeting.

(3) A written notice must be issued by the secretary to each member of the institutional forum at least three days before any ordinary meeting, setting forth the time, date and place of such meeting and the matters to be dealt with.

(4) (a) An extraordinary meeting may be called by the chairperson at any time and must be called by him or her at the request in writing of at least one-fifth of the members of the institutional forum holding office the object of the meeting being stated in the request.

(b) Not less than 24 hours notice must be given of such meeting; and

(c) Except as approved by the meeting, no business other than that of which notice was given must be transacted at such meeting.

(5) (a) The first act of an ordinary meeting, after it has been constituted, is to read and confirm by the signature of the chairperson the minute of the last preceding ordinary meeting and of any extraordinary meeting held subsequently, provided that any objection to the minutes must be raised and dealt with before such confirmation; and

(b) The meeting may take the minutes as read if the copy thereof was previously sent to each member.

(6) A member may not, without the leave of the meeting, speak more than once to a motion or any amendment thereof, but the proposer of any motion or any amendment has the right to reply.

(7) (a) Except as otherwise provided in this Statute, all matters must be decided by a majority of votes of the members present and voting;

(b) The chairperson has a deliberative vote on every matter and, in the case of an equality of votes also a casting of vote; and

(c) Whenever the chairperson so rules, voting must take place by a secret ballot.

(8) If it is so decided by the meeting, the number of members voting for or against any motion must be recorded in the minutes, and in the request of any member the chairperson must direct that the vote of such member be recorded.

(9) A motion or an amendment must be seconded and, if it so directed by the chairperson, be in writing, and no motion or amendment must be withdrawn the consent of the meeting.

(10) The ruling of the chairperson on any matter of order or procedure is binding unless immediately challenged by a member, in which event such must be submitted without discussion to the meeting, whose decision is final.

#### **Executive committee of institutional forum**

62. (1) The institutional forum must appoint a committee known as the executive committee, and the provisions of paragraph 61 apply, with necessary changes to the meetings of such committee.

(2) The executive committee of the institutional forum must be constituted as follows-

(a) the chairperson

(b) the vice chairperson

(c) three other members, one of whom must be a member of  
the senate; and

(d) the secretary to the institutional forum.

#### **REGISTRAR**

##### **Registrar**

63. (1) The registrar must act as returning officer at all meetings of the council, the senate, the convocation and the institutional forum.

(2) In the absence of the registrar, his or her powers must be exercised and his or her functions performed by a person designated by the council.

## **STUDENTS**

### **Registration as a student of the University**

64. (1) Every person who wants to be a student at the University must register as a student not later than the date determined by the senate.
- (2) Registration as a student is valid for one academic year and must be renewed every academic year.
- (3) Every person registering as a student at the University must sign the official registration form, thereby binding himself or herself to such conditions and Rules that be determined by the council.

### **ADMISSION OF STUDENTS FORMERLY REGISTERED AT ANOTHER UNIVERSITY**

#### **Certificate of conduct**

65. Any person formerly enrolled as a student at another University and wishing to be admitted to the University must produce a certificate acceptable to the senate as to his or her conduct at such other university.

#### **Recognition of attendance and examinations at other universities for admission to the degree of bachelor**

66. The senate may accept, as part of the attendance of a student of the University who qualifies for admission to the degree of bachelor, a period of attendance at any other university approved by the senate for this purpose, and the senate may recommend exemption from examinations of the University in any subject on the grounds examinations passed by a student in such subject at any university approved by the senate for this purpose, provided that no such student may be admitted to the degree bachelor unless-
- (a) he or she has attended at the University at least one-half of the course prescribed for the degree at the University;
  - (b) his or her periods of attendance at any other University approved by the senate for his purpose and at the University are together not less than the complete period required by the University for admission to the degree;
  - (c) he or she has passed such examinations of the University as may be determined by the senate;
  - (d) eh or she has paid the prescribed fees; and
  - (e) He or she has complied in all other respects with the requirements for the degree.

#### **Admission of graduates in one faculty to degrees in other faculties**

67. In the case of a candidate who is a graduate of any faculty of the University, or any other university approved by the senate for this purpose, the senate may recognize periods of attendance and examinations in any subject as grounds for exemption from attendance and



examination in that subject prescribed for a degree in another faculty provided that no such candidate must be admitted to a degree in such other faculty unless he or she satisfies the requirements laid down in paragraph 66(a), (b), (c), (d) and (e).

## **DISCIPLINE OF STUDENTS**

### **Misconduct**

68. (1) Any person who registers as a student of the University must, after he or she has signed the registration form of the University, be subject to disciplinary measures and procedures applicable to students as determined by the Statute and the Rules.

(2) A student must render himself or herself liable to disciplinary action if he or she is guilty of misconduct, on or outside the campus of the University, in terms of the provisions of the Statute or the Rules of the University.

(3) A student is guilty of misconduct if he or she-

(a) violates any Rule of the University or attempts to do so;

(b) conducts himself or herself in a manner which is or may be detrimental to the good name of the University, or to the maintenance of the order of the University;

(c) damages, destroys, uses or wrongfully appropriates property of the University or of any other person or body or attempts to do so;

(d) furnishes false information to a member of the teaching or administrative staff of the University; or

(e) possesses or uses or attempts to use a habit-forming drug without a prescription from a registered medical practitioner.

### **Students' representative council disciplinary committee**

69. (1) The council may, subject to this statute and Rules, appoint and authorize a students' representative council disciplinary committee to try students for less serious cases of misconduct and set out by the council.

(2) All decisions of the students' representative council disciplinary committee must be subject to confirmation by the rector.

### **Chief disciplinary officer**

70. The rector is the chief disciplinary officer of the University and is empowered, in the event of any infringement of discipline or misconduct by a student, to exercise discipline himself or herself and may-

- (a) if a charge of misconduct against a student is under investigation, immediately suspend the student from the University until the date of his or her hearing;
  - (b) after investigation. Immediately suspend a student who is resident in a University residence from the residence;
  - (c) review, confirm, alter or set aside any finding or sentence imposed by any body set out in this Statute, provided that any finding of the council is final and cannot be confirmed, altered or set aside by the rector;
  - (d) instruct any disciplinary body to institute disciplinary action in terms of this Statute; and
  - (e) refer a disciplinary inquiry instituted by any disciplinary body for hearing to another disciplinary body, provided that a disciplinary may recommend to the rector that an inquiry instituted by it be referred to another disciplinary body for further investigation and hearing.
- (2) The provisions of paragraphs 72 and 73 must apply to inquiries instituted by the rector.
- (3) Subject to the provisions of paragraph 74; the decision of the rector is final.

#### **Disciplinary committee**

71. (1) The rector must appoint a disciplinary committee or committees to hear disciplinary cases referred to it by the rector.
- (2) The disciplinary committee must consist of three members of the senate designated by the rector.
- (3) The rector must, for every hearing, appoint one of the members as chairperson.
- (4) The decision of the disciplinary committee must be determined by a majority vote of the members present and every member must cast his or her vote.

#### **Procedure of the hearing by disciplinary committee**

71. (1) The procedure at a hearing by the disciplinary committee is as follows-
- (a) the registrar must notify a student in writing to appear before the disciplinary committee, setting out sufficient detail about the alleged misconduct to enable the student to reply thereto;
  - (b) the notice must be served on the student at least 48 hours before the time set down for his or her hearing;
  - (c) the notice must specify the place, date and time of the hearing;

- (d) the notice must call upon the student to file his or her plea or statement in answer to the charge with the registrar at least 24 hours before the fixed time of his or her hearing;
- (e) a law lecturer or a senior law student of the University may represent a student on a charge of misconduct, and a minor may be assisted at his or her hearing by a parent or guardian;
- (f) the registrar must designate a member of the administrative staff to act as secretary;
- (g) a hearing by the disciplinary committee must be held in *camera*;
- (h) the hearing of a student may be held in absentia if he or she fails to appear before the disciplinary committee after having been served with a notice in accordance with subparagraph (b);
- (i) if the student fails to file a plea or statement in accordance with subparagraph (d), the chairperson of the disciplinary committee must call upon the student to plead before the committee;
- (j) the chairperson of the disciplinary committee may submit any documentary evidence at a hearing and call witnesses to substantiate the allegations, and any witness or the student may be questioned by the members of the committee;
- (k) a student who is charged with misconduct may personally or through his or her representative-

\*address the committee at the start of the proceedings to explain the basis of his or her defence;

\*question any of the witnesses called by the committee;

\*inspect any document or exhibit submitted as evidence at his or her hearing;

\*tender evidence himself or herself as regards his or her defence or in mitigation of sentence;

\*call witnesses and submit documentary evidence in support of his or her defence or in mitigation of sentence; and

\*address the committee in defence or in mitigation of sentence after all evidence has been tendered; and

- (i) the chairperson of the committee must orally inform the student of the committee's decision, which must be immediately confirmed in writing by the registrar.

(2) Subject to the provisions of paragraph 74, the decision of the disciplinary committee is final.

(3) Previous convictions of misconduct may be taken into consideration by the disciplinary committee in passing sentence on a student.

### **Imposing of penalties by disciplinary committee**

73. (1) if the disciplinary committee finds a student guilty of misconduct, it may impose one or more of the following penalties-

- (a) a warning;
- (b) a reprimand;
- (c) a fine not exceeding twice the registration fee payable within such period as the committee may determine;
- (d) suspension
- (e) suspension residence privileges;
- (f) expulsion;
- (g) expulsion from residence;
- (h) a directive to apologize in writing to any person or body in a manner determined by the disciplinary committee;
- (i) payment of an amount to good any loss, damage or cost caused to the University or any other person or body;
- (j) exclusion from any further participation in any or all tests or examinations of the University;
- (k) a recommendation to the council for the forfeiture of a bursary, loan or student appointment of whatever nature;
- (l) cancellation of the result of a test or examination or of registration in a particular course;
- (m) divestment of the right to bring to or to use a motor vehicle of any kind on the campus; and
- (n) divestment of any right or privilege vested in the student as a registered student of the University.

### **Appeal against decisions made by rector or disciplinary committee**

74. (1) A student has the right to appeal in writing to the council against a decision given by the rector or the disciplinary committee in the application of the disciplinary provisions of this

Statute, and may submit written arguments or explanations of the grounds of his or her appeal to the rector together with the appeal, and any such appeal must be lodged within three days of the notification by the registrar to the student in accordance with paragraph 72(1).

- (2) The rector must submit the appeal to the council and may submit to the council an argument or explanation in substantiation of the grounds on which the student concerned was convicted by the rector or the disciplinary committee or on which the penalty was imposed, but the rector or a person who served on the disciplinary committee may not attend the meeting at which the council hears such appeal.
- (3) The council may, at the hearing of an appeal, confirm, alter or set aside the conviction by the rector or the disciplinary committee, or confirm, set aside or reduce any penalty imposed by the rector or the disciplinary committee or refer the matter back to the rector or the disciplinary committee for reconsideration, with or without recommendations.
- (4) The decision of the council is final.

#### **Use of library facilities by students**

75. The University librarian may summarily debar a student who has infringed any Rule applicable to the library facilities for a maximum period of 14 days.

#### **Suspension of student who is late for lecture or who behaves in disorderly manner**

76. A member of the teaching staff may summarily suspend a student who is late for a lecture or who behaves in disorderly manner from attending his or her classes for a maximum of two class periods, provided that, if such member of teaching staff is not the head of the department, he or she must report such disciplinary action to the head of the department, who may at his or her discretion reduce the period of suspension.

### **Disciplinary action against minors**

77. Before any disciplinary action is taken by the students' representative council's disciplinary committee, the rector or the disciplinary committee against a minor, his or her parents or guardians must be informed wherever possible of the steps that may probably be taken.

### **Forfeiture of fees payable**

78. In all cases of conviction on account of misconduct, the student concerned must forfeit all claims to a refund or rebate of fees paid or payable to the University by reason of any interference with, or interruption or termination of his or her studies at the University. Or by reason of his or her exclusion from a university residence solely as a result of any action against such student in terms of the provisions of this Statute.

## **FEES PAYABLE BY STUDENTS**

### **Fees**

79. (1) The council must determine when the fees payable by students to the University are payable.
- (2) A student must not be admitted to an examination unless he or she has paid all fees or fines imposed by the University, provided that the rector may exempt the student from this provision.

## **BURSARIES**

### **Bursaries**

80. The council must determine how applicants for bursaries should be submitted and the conditions for repayment of bursary loans.

## **DEGREES, DIPLOMAS AND CERTIFICATES**

### **Degrees**

81. The University is empowered to confer the following degrees, subject to the Higher Education Act and this Statute-

(a) In the Faculty of Arts

In Arts:

Bachelor of Arts	BA
Baccalareus Curationis (Education et Administrationis)	BA Cur (E et A)
Honours Bachelor of Arts	BA Hons
Master of Arts	MA
Master of Arts (Clinical Psychology)	MA
Master of Recreation and Tourism	MRT
Master of Arts (social Work)	MA (SW)
Doctor of Literature	DLitt
Doctor of Philosophy	DPhil
Doctor of Philosophy (community Psychology)	DPhil
Doctor of Philosophy (Library & Information Science)	DPhil

In Communication Science:

Bachelor of Arts in Communication Science	BA (Comm)
Honours Bachelor of Arts in Communication Science	BA (Comm)Hons

In Librarianship:

Bachelor of Library & Information Science	B Bibl
Honours Bachelor of Library & Information Science	B Bibl Hons
Master of Library and Information Science	M Bibl

In Social Work:

Bachelor of Arts in Social Work	BA (SW)
Honours Bachelor of Arts in Social Work	BA (SW)Hons
Masters of Arts in Social Work	MA (SW)

Doctor of Philosophy DPhil

**In Nursing Science:**

Bachelor of Nursing Science BCur

Baccalaureus Curationis (Education et Administrationis) BCur (E et A)

Honours Bachelor of Nursing Science B Cur Hons

Master of Nursing Science M Cur

Doctor of Nursing Science DPhil

**In Music:**

Bachelor of Music B Mus

Honours Bachelor of Music B Mus Hons

Bachelor of Arts in Music BA Mus

Honours BA Music BA Mus Hons

Master of Music MA Mus

**(b) In the Faculty of Law:**

Bachelor of Law B Jur

Baccalaureus Procuratoris B Proc

Bachelor of Laws LLB

Bachelor of Laws (Postgraduate) LLB

Master of Laws LLM

Master of Laws (Course Work) LLM

Doctor of Laws LLD



(c) In the Faculty of Science and Agriculture:

Bachelor of Home Economics	B Home Econ
Bachelor of Science	B Sc
Honours Bachelor of Science	B Sc Hons
Bachelor of Science in Agriculture	B Sc Agric
Honours Bachelor of Science in Agriculture	B Sc Agric Hons
Honours Bachelor of Home Economics	B Home Econ Hons
Master of Science	M Sc
Philosophiae Doctor	PhD

(d) In the Faculty of Theology:

Bachelor of Theology	B Th
Bachelor of Theology (Arts)	B Th (Art)
Honours Bachelor of Theology	B Th Hons
Master of Theology	M Th
Master of Biblical Studies	MA (Biblical Studies)
Doctor of Theology	D Th
Doctor of Biblical Studies	D Phil (Biblical Studies)

(e) In the Faculty of Commerce & Administration:

In Commerce:

Bachelor of Commerce	B Com
Honours Bachelor of Commerce	B Com Hons
Master of Commerce	M Com
Doctor of Commerce	D Com

In Administration:

Bachelor of Administration	B Amin
Honours Bachelor of Administration	B Admin Hons
Master of Administration	M Admin

(f) In the Faculty of Education:

Baccalaureus Paedenomiae	B Paed
Bachelor of Education (Prim)	B Paed
Bachelor of Education (Arts)	B Paed
Bachelor of Education (Comm)	B Paed
Bachelor of Education (Science)	B Paed
Bachelor of Education	B Ed
Bachelor of Education (Ed Psychology)	B Ed
Bachelor of Education (Science)	B Ed
Master of Education	M Ed
Master of Education (Ed Psychology)	M Ed
Master of Education (Education Management)	M Ed
Doctor of Education	D Ed
Doctor of Education (Ed Psychology)	PhD

**Diplomas and certificate**

82. The University is empowered to award the following diplomas and certificates, subject to the provisions of the Higher Education Act and this Statute-

(a) In the Faculty of Arts:

In Librarianship:

Higher Diploma in Library & Information Science	H Dip Bibl
Diploma in School Library Science	H SLS

**In Social Work:**

Higher Diploma in Community Work H Dip Com Org

**In Nursing Science:**

Diploma in Nursing Administration DNA

Diploma in Nursing Education DNE

Diploma in Community Health Nursing DCHN

Higher Diploma in Recreation and Tourism HDRT

**(b) In the Faculty of Commerce & Administration:**

Diploma in Public Administration DPA

**(c) In the Faculty of Education:**

Senior Secondary Teachers Diploma (Comm) SSTD

Senior Secondary Teachers Diploma (Arts) SSTD

Senior Secondary Teachers Diploma (Science) SSTD

University Diploma in Secondary Education UDSE

University Education Diploma UED

University Primary Education Diploma UPED

**ADMISSION TO DEGREES, DIPLOMAS AND CERTIFICATES**

**Minimum period of attendance**

**82. (1) Bachelor's Degree**

Subject to the provision of the Higher Education Act and this Statute, no person must be admitted to a Bachelor's degree unless he or she has, after the issue of matriculation certificate or of the certificate of full exemption from the matriculation examination issued by the Matriculation Board, completed the following period of attendance, which is recognized as the minimum for such degree-

(a) For the degree of Bachelor of Arts or *baccalaureus curationis* (*Educationis et Administrationis*) or Bachelor of Arts in Social Work, Bachelor of Science, Bachelor of Commerce, Bachelor of Administration, Bachelor of Law or Bachelor of Divinity- at least three academic years.

(b) For the degree of Bachelor of Library and Information Science, *Baccalaureus Procurationis*, Bachelor of Laws, *Baccalaureus Paedonomiae*, Bachelor in Domestic Science or Bachelor of Theology - at least four academic years.

(c) For the degree of Bachelor of Education - at least five academic years, provided that he or she has either-

\* been admitted, not less than two academic years before the completion of the Above-mentioned period of attendance, to the degree of Bachelor of Arts or Bachelor of Science or to another degree accepted by the senate of the University as equivalent thereto;

\*obtained, not less than one academic year before the completion of the above-mentioned period of attendance, the degree of Bachelor of Arts or Bachelor of Science or another degree, teacher's diploma or certificate accepted by the senate of the University as equivalent thereto.

(d) For any other bachelor's degree which is not an honours degree- at least three academic years.

(e) For the honours bachelor's degree- at least one academic year after admission to a bachelor's degree recognised by the senate of this purpose.

## (2) Master's degree

Subject to the provisions of the Higher Education Act and this Statute, a master's degree must not be conferred on a candidate in any faculty until at least one year after he or she has satisfied the requirements for the honours bachelor's degree or until at least two years after he or she has been admitted to the ordinary bachelor's degree or to equivalent status in the faculty concerned, provided that in the Faculty of Education at least one year must elapse after he or she has been admitted to the degree of Bachelor of Education or to equivalent status.

## (3) Doctor's degree

Subject to the provisions of the Higher Education Act and of this Statute a doctor's degree must not be conferred on a candidate in any faculty until at least four years after he or she has been admitted to the bachelor's degree or to equivalent status.

**(4) Diplomas and certificates**

Subject to the provision of the Higher Education Act and of this Statute, no person must be admitted to a diploma unless he or she has completed the applicable minimum period of attendance indicated below for such diploma-

- (a) the Higher Diploma in Community Work- at least one academic year;
- (b) the Higher Diploma in Library Science- at least one academic year;
- (c) the Senior Secondary Teacher's Diploma- at least one academic year;
- (d) the University Education diploma- at least one academic year;
- (e) the Diploma in Nursing Education- at least two academic years;
- (f) the Diploma in Nursing Administration- at least one academic year;
- (g) all other diplomas- at least three academic years; and
- (h) the post-graduate Diploma in Recreation & Tourism- at least one academic year.

**(5) A student must complete a course at the University at least during the following periods-**

- (a) in the case of courses for diplomas awarded in the Faculty of Education- one academic year
- (b) in the case of courses for the Higher Diploma in Community Work, the Higher Diploma in Library & Information Science- the final academic year; and
- (c) in the case of courses of any other diploma- the final two academic years.

**CONFERRING OF DEGREES AND AWARDING OF DIPLOMAS AND CERTIFICATES**

Conferring of degrees and awarding of diplomas and certificates

84. (1) for the purpose of conferring degrees and awarding diplomas and certificates, a meeting of the members of the University must be held, to be known as a congregation, to which are invited the members of the council, the members of the senate, the members of the academic staff, the persons upon whom and to whom degrees diplomas and certificates are to be conferred and awarded and such other persons as the rector may determine

(2) A congregation must be presided over by the chancellor or, in his or her absence, the rector.

(3) A congregation must be held at least once a year at such time and place as may be determined by the rector on the recommendation of the senate.

(4) The rector must determine at which congregation any graduand may be admitted to a degree.

(5) The procedure for the presentation of graduands, the conferring of degrees, awarding of diplomas and certificates, academic dress and all other matters regarding congregations not provided for in this Statute must be as determined by the senate with the approval of the council.

(6) No person must admitted to a degree or diploma, other than an honorary degree, unless the senate certifies that such person has satisfied all the requirements prescribed for such degree or diploma.

## **EXAMINATIONS**

### **Requirements**

85. (1) Except as otherwise provided in Higher Education Act or this Statute, a candidate for a degree, diploma or certificate must pass an examination of the University in each course taken by him or her for that degree, diploma or certificate.

(2) An examination of the University qualifying a student in any course for a degree, diploma or certificate must be conducted by at least two examiners appointed by the senate, at least one of whom must be an examiner who has not been connected with the preparation of the student for that

examination, provided that, in the case of a student qualifying for an examination in a first course for a degree, diploma or certificate, the senate may waive the requirement that one of the examiners be a person who has not been connected with the preparation of the student for that examination.

#### Conduct of examinations

86. An examination of the University must be conducted in accordance with the Rules made by the council.

#### Admission to the examinations

87. (1) A student may present himself or herself for examinations in a course only if the senate has received a certificate from the department concerned to the effect that he or she satisfactorily prepared himself or herself for such examination in accordance with the Rules framed by the council, provided that such certificate must be valid for the examination of the semester in which it is issued and, with the approval of the faculty concerned, also for the examination in that course during the next semester or year, provided further that any concession in this connection may only be amended by the senate.
- (2) A student for an honours bachelor's degree must not be admitted to an examination in any subject unless he or she has submitted a certificate, to the satisfaction of the senate, for the lecturers in such subject to the effect that he or she has attained a satisfactory standard proficiency in his or her work in such subject.
- (3) A candidate for the degree of master or doctor must not be admitted to the examination unless he or she has submitted a certificate, to the satisfaction of the senate from his or her promoter to the effect that he or she has satisfactorily prepared himself or herself for such examination by attendance of the classes, and the due performance of his or her work, or that he or she, instead of attending classes, has satisfactorily performed such other work as may have been approved by the senate

## HONORARY DEGREES

### Honorary degrees

88. (1) A proposal to confer an honorary degree must be submitted in writing to the registrar by a member of the council or the convocation.
- (2) Such proposal must be seconded by at least five such members, must be in writing and must reach the registrar before 31 July of each year with a detailed statement indicating the reasons for the proposal.
- (3) The registrar must refer such proposal to an honorary degree committee which must consist of the chairperson of the senate, the deans of the faculties, two representatives of the council on the senate and the three members of the senate on the council.
- (4) The names of persons recommended by the honorary degree committee must be submitted to the senate with a detailed statement indicating the reasons for such recommendation.
- (5) The chairperson of the senate must have a deliberative vote on each resolution and, if a candidate requires one vote for a majority, also a casting vote.
- (6) At first meeting after the meeting of the honorary degree committee, the senate must, without discussion, vote by ballot on the person recommended by the honorary degree committee.
- (7) A recommendation by the senate for the conferment of an honorary degree must be submitted to the council at its next succeeding meeting.
- (8) Voting in the council on the conferment of an honorary degree must be by secret ballot and such an honorary degree must not be conferred unless the majority of the members present are in favor thereof.

## STUDENT ORGANISATIONS AND ACTIVITIES



#### **Student organizations and activities**

89. Subject to the provisions of the Higher Education Act and this Statute, the council may recognize student organizations and activities at the University on such terms as may be determined by the council, and the council may at any time, after furnishing reasons, withdraw such recognition.

#### **Students' representative council**

90. (1) There must be a students' representative council as contemplated in section 35 of the Higher Education Act.
- (2) A students' representative council for the University must be elected by the students of the University in accordance with the students' representative council constitution.
- (3) The composition manner of election, term of office, functions and privileges of the students' representative council must be determined by the constitution of the students' representative council as approved by the council.

#### **Repeal of previous Statute**

91. (1) The Statute applicable to the University of Zululand as published under Government Notice No. R. 215 of 8 February 1980, as amended by Government Notice No. R. 264 of 19 February 1982, is hereby, therefore, repealed with effect from the date on which this Statute comes into operation.
- (2) Notwithstanding subparagraph (1), any body of the University which existed immediately prior to the publication of this Statute continues to exist and functions in terms of this Statute until the day prior to the day when each new structure, reconstituted in terms of this statute, becomes functional.

## **Appendix B: Statute of the University of Swaziland**

As in Appendix A, the statute of the University Swaziland presented hereunder has been reproduced in its entirety.

THE UNIVERSITY OF SWAZILAND ACT, 1983 (ACT No. of 1983)

And

THE STATUTES OF THE UNIVERSITY OF SWAZILAND, 1983

THE UNIVERSITY OF SWAZILAND ACT, 1983

### **ARRANGEMENT OF SECTIONS**

#### **PART I - PRELIMINARY**

1. Short title and commencement.
2. Interpretation.

#### **PART II - ESTABLISHMENT AND FUNCTIONS OF THE UNIVERSITY**

3. Establishment of the University.
4. Membership of the University.
5. Objects and functions of the University.
6. Custody and authentication of common seal.
7. Degrees, diplomas, etc.

#### **PART III - OFFICERS OF THE UNIVERSITY**

8. Chancellor.
9. Vice-Chancellor.
10. Pro-Vice-Chancellor.
11. Registrar.
12. Bursar.
13. Librarian.

#### **PART IV - COUNCIL OF THE UNIVERSITY**

14. Council.
15. Statutes.
16. Powers and duties of the Council.

## PART V - THE SENATE

17. Establishment and composition of the Senate.
18. Powers and duties of the Senate.

## PART VI - FACULTIES

19. The Faculties of the University.
20. Deans.

## PART VII - STAFF OF THE UNIVERSITY

21. Academic and Administrative Staff.
22. Appointment of Staff.

## PART VIII - STUDENTS OF THE UNIVERSITY

23. Students.
24. Students' Representative Council.

## PART IX - FINANCIAL PROVISIONS

25. Funds, Assets, and liabilities.
26. Financial year.
27. Estimates.
28. Accounts and audit.

## PART X - REPEAL, TRANSITIONAL & CONSEQUENTIAL PROVISIONS

29. Repeal of the University of Botswana & Swaziland Order, 1976 and the University College of Swaziland Order, 1976.
30. Transitional.
31. Transfer and vesting of assets and liabilities.
32. Saving of agreements, deeds, actions, etc.

## PART I-PRELIMINARY

Short title and commencement.

1. This Act may be cited as the University of Swaziland Act, 1983 and shall come into operation on a date to be appointed by the Minister by Notice in the Gazette.

Interpretation.

2. In this Act unless the context otherwise requires-
  - "Bursar" means the Bursar of the University appointed under Section 12;
  - "Chancellor" means the chancellor appointed under Section 8;
  - "Council" means the Council of the University established under Section 14;
  - "Pro Vice-Chancellor" means the Pro-Vice-Chancellor appointed under Section 10;
  - "Faculty" means a faculty of the University established under section 19;
  - "Financial year" means the period referred to under Section 26.

"Former University" means the University of Botswana and Swaziland established under the University of Botswana and Swaziland Order, 1976 and the University of Botswana Lesotho and Swaziland;

"Graduate" means a graduate of the University or of the former University;

"Minister" means the Minister responsible for Education;

"Lecturer" means a lecturer of the University;

"Registrar" means the Registrar appointed under Section 11;

"Senate" means a Senate established under Section 17;

"Statute" means a Statute made by the Council under Section 15;

"Student" means a student of the University;

"University" means the University of Swaziland established under Section 3;

"Vice-Chancellor" means the Vice-Chancellor appointed under Section 9.

## PART II - ESTABLISHMENT AND FUNCTIONS OF THE UNIVERSITY

### *Establishment of the University*

3. (1) There is hereby established a University which shall be known as the University of Swaziland.

(2) The University shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and of doing performing all such things and acts as a body corporate may lawfully do or perform.

### *Membership of the University.*

4. (1) The University shall consist of -

- (a) the Chancellor;
- (b) the Vice-Chancellor;
- (c) the member of the University Council;
- (d) the Registrar, the Bursar, and Librarian
- (e) the Pro Vice-Chancellor
- (f) the members of the Academic Staff.
- (g) the Emeritus Professors of the University and the former University;
- (h) the graduates of the University and of the former University;
- (i) the students of the University;

(2) The Council may, on the recommendation of the Senate, declare other persons to be members of the University.

### *Objects and functions of the University.*

5. (1) The objects and functions of the University shall be-

- (a) to provide instruction to all students admitted to the University;
- (b) to assist in the preservation, transmission and increase of knowledge and in the stimulation of the intellectual life and cultural development of Swaziland;
- (c) to provide facilities for higher learning, including technological and professional education, and for research;
- (d) to conduct examinations for granting degrees, diplomas, certificates and other awards;
- (e) to co-operate with other bodies in the planned development of higher education and, in particular to examine and, if thought fit, approve proposals for new Faculties, departments, courses and subjects of study.

(2) The University shall not discriminate against any person on race, religion, sex or any other ground in respect of-

- (a) the registration of any person as a student of the University or
- (b) the appointment of any person to the academic or other staff of the University.

*Custody and authentication of common seal*

6. (1) The common seal of the University shall be kept in custody as the University Council may direct and shall not be used except on the order of the University Council.
- (2) The common seal of the University shall be authenticated by the signature of the Vice-Chancellor, or of one other member of the University Chancellor duly authorized by the Council and the Registrar.
- (3) The common seal of the University, when affixed to any document and duly authenticated under this section, shall be judicially and officially noted and unless the contrary is proved, any order or authorization by the signatories shall be presumed to have been lawfully made.

*Degrees, diplomas etc.*

7. (1) Subject to this Act the University may-
- (a) confer such degrees and grant such diplomas or certificates as may be provided for in the Statutes.
  - (b) confer any degrees honoris causa upon any person who has rendered distinguished service in the advancement of any branch of learning or who has otherwise rendered himself worthy of such degree as any be provided for the Statutes.
  - (c) confer the title of Emeritus Professor upon any professor, on retirement or resignation from the service of the University, who has served with distinction, as may be provided for in the Statutes.

PART III-OFFICERS OF THE UNIVERSITY

*Chancellor*

8. (1) There shall be a Chancellor of the University who shall be the Head and Chief Officer of the University.
- (2) The Chancellor of the University shall be His Majesty the King of Swaziland.
- (3) The Chancellor may delegate his powers under this Act to any other Person.

*Vice-Chancellor*

9. (1) There shall be a Vice-Chancellor who shall be the Chief Academic and Administrative Office of the University and who shall exercise such powers and perform such duties as may be conferred on him by the Statutes.
- (2) The Vice-Chancellor shall, subject to the approval of the Chancellor in consultation with the Prime Minister and the Minister, be appointed by the Council. (Amended Act 3/97)
- (3) Before the appointment of the Vice Chancellor, a Committee of seven shall select the names of possible candidates and submit them to the Council for its submission to the Minister who shall in turn submit them to the Chancellor.(Amended Act 3/97)

- (4) The committee of seven members shall be detailed in the University Statutes.
- (5) The Vice-Chancellor shall be an ex-officio Chairman of the Senate.
- (6) The Vice-Chancellor shall, in the absence of the Chancellor, have power to confer degrees.

*Pro-Vice-Chancellor*

10. There shall be a Pro-Vice-Chancellor who shall act as Vice-Chancellor during a vacancy in that officer during the absence, inability or incapacity of the Vice-Chancellor.

*Registrar*

11. (1) There shall be a Registrar of the University appointed by the Council who shall be the Chief Administrative Officer of the University and shall exercise such powers and perform such duties as are assigned to him under this Act, the Statutes and by the Council, or as may be delegated to him by the

*Vice-Chancellor*

- (2) The Registrar shall be under the immediate supervision and control of Of the Vice-Chancellor.
- (3) The terms and conditions of employment of the Registrar shall be determined by the Council.

*Bursar*

12. There shall be a Bursar of the University who shall be appointed by the Council in such manner and under conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the financial administration of the University.

*Librarian*

13. There shall be a Librarian of the University who shall be appointed by the Council in such manner and under such conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the

Libraries of the University.

#### PART IV- COUNCIL OF THE UNIVERSITY

*Council*

14. (1) There shall be a Council of the University which shall, subject to this Act, be responsible for the Government, control and administration of the University.
- (2) The Council of the University shall consist of-
  - (a) The Chairman of the Council appointed by the Chancellor in

consultation with the Minister;

- (b) The Vice-Chancellor;
- (c) the Pro-Vice-Chancellor;
- (d) the Attorney-General;(Amended Act 3/97)
- (e) four persons appointed by the Minister after consultation with the relevant Ministries as follows:
  - (I) Ministry of Education;
  - (II) Ministry of Finance;
  - (III) Department of Establishment and Training;
  - (IV) Department of Economic Planning and Statistics.
- (f) three persons elected by the Senate from among its members;
- (g) three persons appointed by the Chancellor who are not public officers;
- (h) one person elected by the Academic Staff who are not members of the Senate, and the Senior Administrative Staff, acting as an electoral college; such elected person being a member of the electoral college;
- (i) two members elected by graduates of the University or former University, who are resident in Swaziland;
- (j) one student elected by the Students' Representative Council of the University who shall not participate in the consideration of or voting upon matters of a confidential or personal nature as determined by the Chairman;
- (k) not more than three persons appointed by the Council by reason of their competence in education or related fields.

(3) Subject to subsection (4) members of the Council other than those appointed under paragraphs (a), (b) and (c) of subsection (2) shall hold office for such period, not exceeding three years, as may be specified in their appointments.

(4) The office of a member of the Council shall become vacant-

- (a) if he ceases to be qualified to be a member
- (b) if he resigns his office in writing under his hand addressed to the Registrar
- (c) if the Council is satisfied that such member is, by reason of physical or mental infirmity, or by absence from three or more consecutive meetings without the permission of the Chairman, unable to exercise the function of his office
- (d) on his death.

(5) Where the office of a member of Council becomes vacant for any reason Specified in subsection (4) the Registrar shall notify the body which originally appointed or elected such member of such vacancy and such body shall forthwith fill the vacancy in the manner specified.

(6) In the absence of the Chairman of the Council the member of the Council present at any meeting may elect one of their members to act as Chairman for that meeting.

(7) All decisions of the Council shall be made by a majority of the members present and where there is an equality of votes the Chairman for that meeting shall have a casting vote in addition to his deliberative vote.

(8) The quorum at any meeting of the Council shall be eight. Where there is no quorum at any meeting the meeting shall be adjourned.

(9) Subject to this Act and the Statutes, the Council may regulate its own procedures.

### *Statutes*

15. (1) Subject to subsection (2) in the performance of its function and in the carrying out its duties under this Act, the Council may make Statutes for:- (Amended Act 3/97)
- (a) the government, control and administration of the University; (Amended Act 3/97)
  - (b) the validation of acts or resolutions of the Council or the Senate notwithstanding:- (Amended Act 3/97)
    - (i) any vacancy in the body doing such acts or passing such resolutions; (Amended Act 3/97)
    - (ii) any want of qualifications by or invalidity in the election or appointment of any member of that body whether present or absent from any meeting thereof and whether or not the member voted on the acts or resolutions; (Amended Act 3/97)
  - (c) that the appointment of term of office of any such member of either body shall have expired or for any other reason; (Amended Act 3/97)
  - (d) purposes connected with paragraphs (a), (b) and (c). (Amended Act 3/97)
- (2) The Council shall not make, amend or revoke any Statute which relates to the Senate, the description of examinations for the award of degrees, diplomas, certificates, honorary degrees or other awards of the University or the conferring of degrees, honorary degrees or the award of diplomas, certificates or other awards without first consulting the Senate upon such Statute, amendment or revocation, as the case may be.

### **Powers and duties of the Council**

16. (1) Without prejudice to the generality of section 14 the Council may-
- (a) make any appointment authorized by this Act or any Statute,
  - (b) after consultation with the Senate in the case of academic posts, establish, confirm, abolish, or hold in abeyance an post in the University.
  - (c) govern, manage and regulate the finances investments, property, business and all other affairs of the University,
  - (d) invest any monies belonging to the University in such manner as it thinks fit,
  - (e) provide for the welfare of all persons employed by the University,
  - (f) determine the terms and conditions of service upon which examiners shall be appointed by the Senate.
  - (g) take into consideration and, if deemed proper to do so, give effect to reports from the Senate on those matters upon which the Senate is authorized or required by this Act or by any Statute to make reports;
  - (h) after consultation with the Senate, by Statute, group full-time and part-time teaching members of the academic staff, and students, into Departments and Faculties according to their academic subjects and to approve the appointment of or election of Heads of Departments and Deans of the Faculties;
  - (i) after consultation with the Senate, by Statute, determine whether any institution of learning or research desiring affiliation with the University shall be so affiliated and, in such case, the nature of the affiliation;
  - (j) do or perform such other things or functions as may assist it in the performance of its functions.



(2) All documents, other than those required by law to be under the Common Seal of the University, made on behalf of the Council and all decisions of the Council shall be signified under the hand of the Chairman, the Vice-Chancellor or the Registrar or of any member of the Council generally or specifically authorized by the Council in that behalf.

## PART V - THE SENATE

### Establishment and composition of the Senate

17. (1) There shall be a Senate of the University which shall be the academic authority of the University and shall control and direct the teaching, research, examinations and the award of degrees, diplomas, certificates and other awards.

(2) The Senate of the University shall consist of -i

## SCHEDULE OF THE STATUTES

### *Citation*

1. These Statutes may be cited as the Statutes of the University of Swaziland, 1983 as amended in 2005.

### *Interpretation*

2. In the Statutes, unless the context otherwise requires -

"academic year" means such period whether shorter or longer than twelve months as the Senate may determine;

"Congregation" means the congregation referred to under Statute 3;

"faculty" means a faculty referred to under Statute 42;

"tutor" means tutor referred to under Statute 11.

### *Congregations of the University*

1. (1) There shall be held at least one congregation in each Academic Year.

(2) The time, place and procedure of the congregations of the whole University shall be determined by the Chancellor.

(3) Degrees, Diplomas, Certificates and other academic distinctions shall be conferred in the presence of the congregation.

(4) The Chancellor, or in his absence the Vice-Chancellor, or in the absence of both, the Pro-Vice-Chancellor, or in the absence of the Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor, a member of the Council appointed for that purpose by the Council, shall preside at all congregations.

### *The Vice-Chancellor*

4. (1) The Vice-Chancellor shall be selected by a committee of seven members constituted as follows -

(a) the Chairman of the Council who shall be the Chairman of the Committee;

(b) three members of the Council who are not members of the Senate appointed by the Council;

(c) three members of the Senate appointed by the Senate.

(2) The Vice-Chancellor shall -

(a) hold office for a period of four years and be eligible for re-appointment

- (b) be the Chief Disciplinary Officer of the University and may for good cause before a hearing and /or during an investigation:
  - (i) suspend a student from attending classes or lecture;
  - (ii) exclude any student from the University or its precincts;

Provided that such suspension or exclusion and reasons thereof shall be reported by the Vice Chancellor to the Senate at its next meeting.

- (b) in the carrying out of his duties as the Chief Disciplinary Officer of the University, appoint a Student Disciplinary Committee to deal with alleged serious breaches of the Regulations for Student Discipline, notwithstanding the right of students to appeal to Senate and Council.
- (3) The Vice-Chancellor may resign in writing addressed to the Chairman of Council.

#### *The Pro-Vice-Chancellor*

- 2. (1) The Pro-Vice-Chancellor shall be appointed by the Council from among members of the academic staff holding posts at Associate Professional level or above, on the recommendation of a Joint Committee of the Council and the Senate and, subject to this Statute, on such terms and conditions as the Council may determine.
- (2) The Joint Committee referred to under paragraph (1) shall consist of -
  - (a) the Chairman of the Council who shall be the Chairman of the Committee;
  - (b) the Vice-Chancellor;
  - (c) two members of the Council who are not members of the Senate, appointed by the Council;
  - (d) two members elected by the Senate from among its members.
- (3) The Pro-Vice-Chancellor shall -
  - (a) hold office for a period of three years and be eligible for re-appointment;
  - (b) act as Vice-Chancellor during a vacancy in the office of Vice Chancellor or during the absence, inability or incapacity of the Vice Chancellor;
  - (c) exercise such powers and duties as may be delegated to him by the Vice-Chancellor; and
  - (d) shall not vacate his academic post by virtue of his appointment.
- (4) The Pro Vice-Chancellor may resign in writing addressed to the Chairman of the Council.

#### *The Registrar*

- 6. (1) The Council shall, on the recommendation of a Joint Committee of the Council and the Senate, appoint a Registrar on such terms and conditions as the Council may determine.
- (2) The Joint Committee referred to under paragraph (1) shall consist of -
  - (a) the Chairman of the Council who shall be the Chairman of the Committee;
  - (b) the Vice-Chancellor;
  - (c) two members of the Council who are not members of the Senate, appointed by the Council;
  - (d) two members elected by the Senate from among its members.

- (3) The outgoing Registrar shall not be eligible for election as a member of the Joint Committee.
- (4) The Registrar shall be responsible to the Vice-Chancellor and to the Council for the administration of academic matters of the University and shall keep such records as may be necessary.
- (5) The Registrar shall be the Secretary of the Council and the Senate and shall provide secretaries to such committees and boards as may be established by the Council and the Senate.

*The Bursar*

7. (1) The council shall, on the recommendation of the Joint Committee of the Council and the Senate, appoint a Bursar on such terms and conditions as the Council may determine.
- (2) The Joint Committee referred to under paragraph (1) shall consist of:
- (a) the Chairman of the Council who shall be the Chairman of the Committee.
  - (b) the Vice-Chancellor;
  - (c) two members of the Council who are not members of the Senate, appointed by the Council;
  - (d) to members elected by the Senate from among its members.

- (3)The outgoing Bursar shall not be eligible for election as a member of the Committee.
- (4)The Bursar shall be responsible to the Vice-Chancellor for the financial administration of the University.

*The Librarian*

8. (1) The Council, on the recommendation of Joint Committee of the Council and Senate, appoint a Librarian on such terms and conditions as the Council may determine.
- (2) The Joint Committee referred to under paragraph (1) shall consist of-
- (a) the Chairman of the Council who shall be the Chairman of the Committee;
  - (b) the Vice-Chancellor;
  - (c) two members of the Council who are not members of the Senate, appointed by the Council;
  - (d) two members elected by the Senate from among its members.

- (3)The outgoing Librarian shall not be eligible for election as a member of the Joint Committee.
- (4) The Librarian shall be responsible to the Vice-Chancellor for the administration and control of the University libraries.

9.(1)There shall be a Dean of each Faculty appointed by the Vice-Chancellor on the recommendation of the Faculty Board which shall elect from among its full-time teaching members of Senior Lecturer level or above such person as may be deemed suitable for the appointment. The Vice-Chancellor may at his discretion appoint a person below the rank of Senior Lecturer.

(2) (a) The person appointed under paragraph (1) shall have received a simple majority of at least fifty one percent, (51%) of the votes of all full time teaching members assigned to the Faculty Board.

(b) If no candidate is nominated and or receives the simple majority of at least one percent (51%), the Senate shall recommend a Dean to be appointed by the Vice Chancellor from among the full time teaching members of the Faculty.

(3) The period of appointment of a Dean of a Faculty shall be two years.

(4)A Dean of a Faculty shall-

- (a) be the academic and administrative head of the Faculty and shall liaise with and be responsible to the Vice-Chancellor in all matters concerning the Faculty;
- (b) co-ordinate the activities of the Departments within the Faculty in consultation with the Faculty.
- (c) be the Chairman of the Faculty Board and ex-officio member of the Senate, and Academic and Administrative Staff Committee;
- (d) be responsible for the examinations within the Faculty, ensuring the timeous preparation of examination papers, over-seeing the recommendations for the appointment of external examiners and collating and preparing for the Senate the examination results from the Departments within the Faculty;
- (e) monitor, with the Head of the relevant Department, the procedures for the appointment of the new members of the Academic and Non-Academic Staff;
- (f) submit such annual confidential reports as may be requested, on all members of the Academic and Non-Academic Staff;
- (g) be responsible through the various Departments, for the selection of local staff eligible to proceed on further training and for co-ordinating the activities of staff undergoing training within the Faculty.
- (h) in consultation with the Tutors, oversee the selection and admission of new students within the Faculty;
- (i) oversee matters of research and post-graduate study within the Faculty;
- (j) prepare financial estimates for the requirements of the faculty, and oversee the preparation of the departmental financial estimates.

(5) Where the Dean of the Faculty is absent for a period of two more months, an Acting Dean shall be appointed, in accordance with the procedure prescribed in paragraph (1) and where the Dean shall be absent for a period less than two months, he shall nominate an Acting Dean.

*Head of Departments*

10. (1) A Head of Department shall be appointed by the Vice-Chancellor, from among the members of the academic staff of the Department. The Vice-Chancellor shall take into account the recommendation of the Dean of the Faculty who shall have consulted the Departmental Board; the recommendation of the Dean shall be made after consultation with the full-time teaching members of Department concerned. If no recommendation is made to the Vice-Chancellor as to the candidate to be appointed, the Senate shall appoint a Head of Department from among the full-time teaching members of the Department.
- (2) A Head of Department shall be appointed for a period of two years.
- (3) A Head of Department shall-
- (a) be the academic and administrative head of the Department and shall liaise with the Dean in all matters concerning the Department, including the preparation of Departmental estimates;
  - (b) be Chairman of the Department Board;
  - (c) in consultation with the teaching members of the Department, be responsible for the examinations within the Department, ensuring the timeous preparation of examination papers, selecting and recommending the appointment of an external

examiner and collating and preparing for the Faculty Board the examination results within the Department;

(d) assist the Dean of the Faculty in the appointment of new members of the academic staff and in consultation with other full-time teaching members of his Department, prepare a list of candidates for consideration by the Selection Board and shall also assist in the procedures laid down for the appointment of non-academic staff within the Department.

(e) co-ordinate the training programmes of local staff;

(f) in consultation with the teaching members of the Department prepare and submit for the approval of the Faculty Board a teaching programme for the Department and ensure a proper and acceptable standard of teaching within the Department is maintained;

(g) in consultation with the Departmental Board, ensure the effective development of courses of study, including syllabuses, within the Department and make appropriate recommendations to the Faculty Board for the implementation of proposals relevant to this development;

(h) ensure, as far as he is able, that academic, technical and administrative staff within the Department carry out the duties imposed on them in terms of their appointments;

(i) oversee matters of research and postgraduate study within the Department.

#### *Faculty Tutors*

11. (1) There shall be a Faculty Tutor in each Faculty, who shall be appointed by the Vice-Chancellor from among the full-time teaching members of the Faculty. The Vice-Chancellor shall take into account the recommendation of the Dean of the Faculty, who shall have consulted the Faculty Board. The Faculty Tutor shall perform such functions as may be prescribed by the Senate.

i. The Faculty Tutor shall, in the performance of his functions, be assisted by the Dean of Faculty and Heads of Departments of that Faculty.

#### *University Auditors*

12.(1) The Council shall, at its annual meeting, appoint a University auditor or such number of auditors as may be necessary, who shall hold office for one year and be eligible for re-appointment, receive such remuneration as Council may determine and who shall -

(a) be a member, in good standing, of a Society or Institute which is a founder or associate member of the International Accounting Standards Committee and holds a current practicing certificate issued by the Society or Institute of which he is a member;

(b) a citizen of Swaziland or hold a valid residential permit and be in practice within the Kingdom of Swaziland;

(c) not be a member of the Council, Senate or staff of the University.

(2) The auditor or such number of auditors shall have the right of access, at all reasonable times, to the books, records, and accounts of the University and shall be entitled to require from the officers of the University such information as may be necessary for the performance of his duties.

#### *Emeritus Professors*

13.(1) The Council may, on the recommendation of the Senate, confer the title of Emeritus Professor on any professor of the University on or after his retirement, in recognition of distinguished service of five or more years to the University, or to the former University.

(2) On ceremonial occasions an emeritus professor shall be deemed to be senior in rank to a professor.

(3) An emeritus professor shall not in such capacity serve on any University body or exercise any administrative or executive functions.

#### *Degrees, Diplomas and Certificates*

14. (1) The University may confer any of the following Degrees-

- Bachelor of Arts (in Humanities and Social Science) (B.A)
- Bachelor of Commerce (B. Com.)
- Bachelor of Education (B. Ed.)
- Bachelor of Science (B.Sc.)
- Bachelor of Science (in Agriculture) (B. Sc. (Agric.))
- Bachelor of Science (in Agricultural Education) (A. Sc. (Ag. Ed.))
- Bachelor of Laws (LL.B)
- Bachelor of Arts (in Law) (B.A. Law)
- Bachelor of Science in Home Economics
- Bachelor of Science in Home Economics Education
- Bachelor of Engineering
- Bachelor of Nursing Science
- Bachelor of Science in Environmental Health Science

(2) The University may confer any of the following Post-Graduate Degrees

- Master of Arts (in Humanities, and Social Science) (M.A.)
- Master of Commerce (M. Com.)
- Master of Education (M.Ed.)
- Master of Science (M.Sc.)
- Master of Science (in Agriculture) (M.Sc.(Ag.))
- Master of Science (in Agricultural Education) (M.Sc.(Ag.Ed.))
- Master in Laws (LL.M)
- Master of Science in Environmental Resource Management
- Master of Arts in History
- Master of Science in Crop Science
- Master of Science in Chemistry
- Doctor of Philosophy

(3) The University may award any of the following Diplomas and Certificates

#### *(a) Diplomas*

- Concurrent Diploma in Education (C.D.E.)
- Diploma in Adult Education (Dip.Ad.Ed.)
- Diploma in Agriculture (Dip.Agr.)
- Diploma in Agricultural Education (Dip.Agr.Ed.)
- Diploma in Commerce
- Post-Graduate Diploma in Education (P.D.E.)
- Diploma in Accounting and Business Studies (D.A.B.S.)
- Diploma in Education (Dip.Ed.)

Diploma in Home Economics (Dip.H.Econ.)  
Diploma in Home Economics Education  
Diploma in General Nursing  
Diploma in Environmental Health Science  
Diploma in Management (Dip.Man.)  
Diploma in Law (Dip.Law)  
Diploma in Statistics (Dip.Stats.)

(b) *Certificates*

Certificate in Agriculture (Cert. Agr.)  
Certificate in Primary Education (C.P.E.)  
Certificate in Business Studies (Cert.B.S.)  
Certificate in Statistics (Cert. Stats.)  
Postgraduate Certificate in Education  
Post Diploma Certificate in Midwifery Science  
Postgraduate Diploma Certificate in Community Mental  
Health Nursing Science  
Certificate in Adult Education  
Certificate in French

*Conferment of Honorary Degrees*

15. (1) The University may, from time to time, confer upon any person who has rendered distinguished service in the advancement of any branch of learning or who has otherwise rendered worthy of such degree any of the following degrees:

Doctor of Laws (Ho.L.L.D.)  
Doctor of Letters (Hon.D.Litt.)  
Doctor of Education (Hon.D.Ed.)  
Doctor of Science (Hon.D.Sc.)

- (2) Proposals for the conferment of honorary degrees shall be considered by a Joint Committee of the Council and the Senate, consisting of the Chairman of the Council, the Vice Chancellor, two members elected by the Council from among its members who are not members of the Senate, and two members elected by the Senate from among its members.
- (3) The elected members of the Joint Committee shall hold office for such period, not exceeding three years, as may be specified on their election by the electing body and shall be eligible for re-election.

*Students of the University*

16. (1) The Students of the University shall consist of those persons receiving regular instruction at the University in courses prescribed in the University Regulations.

(2) Subject to their compliance with the Student Regulations approved by the Senate the students shall enjoy all the privileges and facilities available to them in the University.

(3) Each student shall co-operate with the University authorities in maintaining and promoting efficiency and good order in the University.

(4) The affairs of the student body shall be governed by a Students' Representative Council which shall -

(a) represent the students of the University in their dealings with the University authorities and other relevant bodies;

(b) promote the cultural, social and recreational life of the students.

(c) promote the spiritual upliftment of the student body.

(5) The Constitution of the Students' Representative Council shall be subject to the approval of the Council, on a recommendation from the Senate,

Provided that the provisions of the Student Representative Council Constitution shall be interpreted in such a manner as to conform with the University Act, Statutes and Regulations, if any provision of the said Constitution is inconsistent therewith, such a provision of the Constitution shall, to the extent of the its inconsistency, be of no force or effect.

#### *Payment of Fees*

17. (1) The University may charge any student of the University or any other person receiving instruction from the University such fees as the Council may, from time to time, determine.

(2) No person shall be eligible for the award of a degree or other qualification by the University unless he has paid all fees for tuition and maintenance and any other fees owing to the University.

#### *The Council*

18. (1) The Council shall hold at least one Ordinary Meeting each Semester, one of which shall be an Annual Meeting to approve accounts and the appointment of an auditor or auditors. The Annual Meeting shall be held not later than three months after the end of the financial year.

(2) Special Meetings of the Council shall be held at such times and places as the chairman may determine or at the written request of eight or more members of the Council.

(3) An agenda shall be circulated by the Registrar at least seven days before any Ordinary Meeting of the Council. This paragraph shall mutatis mutandis apply to Special Meetings of the Council.

(4) The quorum of the Council shall be eight members.

(5) Questions shall be decided by a simple majority of votes cast. In the event of there being an equality of votes at any meeting, the Chairman shall have a casting vote, in addition to his deliberative vote.

### **THE SENATE**

#### *Meetings of the Senate*

19. (1) The Senate shall hold two or more Ordinary Meetings in each Semester.

(2) A Special Meeting of the Senate shall be held at such time and place as the Chairman may determine, or at the written request of not less than fifteen members of Senate.

(3) The quorum at meetings of the Senate shall be one third of the members and shall include the Vice-Chancellor or the Pro-Vice-Chancellor.

(4) A decision of the Senate shall not be invalidated by vacancies in its membership or by defects in the appointment or election of any of its members.

(5) Questions arising at meetings of the Senate shall be decided by a simple majority of votes cast. In the event of there being an equality of votes, the Chairman shall have a casting vote, in addition to his deliberative vote.

#### *Powers and Duties of the Senate*

20. (1) Subject to the Act and the Statutes the Senate shall -



- (a) make Regulations regarding the eligibility of persons for admission to courses for a degree, diploma, certificate or other award of the University, for their continuance in such course and for the obtaining of any degree, diploma, certificate or other award of the University;
- (b) make Regulations for the standard of proficiency to be attained in each examination for a degree, diploma, or certificate of the University;
- (c) decide which persons have reached the standard of proficiency referred to in paragraph (b) or are otherwise fit for the award of a degree, diploma, certificate or other award of the University;
- (d) facilitate liaison and consultation with other Universities with a view to the better discharge of its duties;
- (e) determine academic dress in respect of the University;
- (f) initiate proposals and make representations to the Council relating to the administration of the University;
- (g) appoint such Boards, Standing Committees and ad hoc Committees as may be necessary for the better discharge of its duties;
- (h) prepare estimates of expenditure for carrying out the academic functions of the University, submit them to the Council for consideration and approval and allocate the annual grants which the Council may authorize.

(i) for research; and

(ii) for facilitating study leave for members of the academic staff;

- (i) appoint internal and external examiners;
- (j) prescribe subject to any conditions stipulated by the founders or donors thereof which are accepted by the Council, the times, mode and conditions of competition for fellowships, scholarships, studentship, exhibitions and other prizes and award the same;
- (k) report to the Council on all Statutes or proposed changes thereto;
- (l) report to the Council on any matter referred to it by the Council;
- (m) make and assist the Vice-Chancellor in enforcing Regulations for the discipline of the students;
- (n) suspend or dismiss any student for good cause subject to the right of appeal to the Council;
- (o) exercise all such powers as are or may be conferred on the Senate by the Act, the Statutes and Regulations and do such other acts as the Council may authorize;
- (p) elect three members of the Senate to be members of the Council;
- (q) recommend the constitution of the Students Representative Council to the Council for its approval.

(2) In respect of any matter on which the Senate is required to report or to make Regulations under paragraph (1) (a), and (f) the Council shall not reject or vary any report or Regulations without further reference to the Senate.

#### COMMITTEES OF SENATE

The Senate may, subject to such conditions as it may impose, delegate to any Committee, any of its functions:

#### THE DEANS' COMMITTEE

### *Establishment and Faculties*

(3) (1) There shall be a Deans' Committee of Senate which among other things:

- (a) consider proposed new academic programmes and advise the Senate accordingly;
- (b) review academic regulations and recommend amendments to the Senate;
- (c) consider proposed new academic regulations and make recommendations to the Senate; and
- (d) perform any other duties assigned by the Senate.

(2) The Committee may, at its discretion, invite to its meetings such other persons as may be necessary to assist in the performance of its functions.

### *Composition and Membership of the Committee*

(3) The Committee shall consist of the following members:

- (a) the Pro Vice Chancellor, who shall be the Chairman;
- (b) the Deans of all Faculties;
- (c) the Director of the Institute of Distance Education;
- (d) the Librarian; and
- (e) the Director of the Institute of Post Graduate Studies;

A secretary shall be appointed from the Registrar's office and shall not be a member of the Committee.

### *Meetings of the Committee*

- (4) (a) The Committee shall hold at least two meetings in one academic year; one in each semester.
- (b) There may be a special meeting held at any other time of the year at the instance of the Pro Vice Chancellor.
- (c) The quorum at meetings of the Committee shall be a simple majority of at least fifty one percent (51%) of the members and shall include the Pro Vice Chancellor.

### *Termination of Membership*

- (5) Any member of the Committee may be terminated when he/she ceases to hold the position of Dean.

## THE STUDENT DISCIPLINARY COMMITTEE

Whereas the Student Disciplinary Committee may assist the Vice Chancellor in enforcing the Regulations for the Discipline of Students subject to the right of appeal to Senate and Council:

### *Establishment and Functions*

(6) (1) There shall be established a Student Disciplinary Committee which shall among other things:

- (a) be responsible for the discipline of all University Students for the alleged serious breaches of the Student Regulations for Discipline;

- (b) impose any penalties it may deem appropriate in any given matter before it; and
- (c) submit reports to the Senate on all matters before it and action taken, from time to time or as required.

*Composition and membership of the Committee*

- (2) The Committee shall comprise of the following members:
  - (a) a Chairman, with legal background appointed by the Vice Chancellor, with the approval of the Senate, who shall be the a member of the University but not a member of Senate or Council; and
  - (b) four University staff members appointed by the Vice Chancellor, who shall not be members of Senate or Council.

A representative of the Dean of Student Welfare Unit who shall not be a member of the Committee but act as a liaison officer to regulate the appearance of the student concerned before the Committee.

A secretary shall be appointed by the Vice Chancellor from the Registrar's office and shall not be a member of the Committee.

*Meetings of the Committee*

- (3) The Committee shall meet at such time and place as the Chairman may determine.
- (4) Four members of the Committee including the Chairman, shall constitute a quorum.

*Term of Office*

- (5) Members of the Committee shall serve for a period of four years and shall be eligible for re-appointment.

*Termination of Membership*

- (6) Any member of the Committee, shall be terminated on any of the following grounds:
  - (a) ceases to be a member of the University;
  - (b) expiry of term of office; and
  - (c) resignation in writing subject to a three month notice.

**THE ADMISSSIONS COMMITTEE**

*Establishment and Functions:*

- (7) (1) There shall be an Admissions Committee of Senate which shall, among other things:
  - (a) receive, consider and approve or reject Faculty Recommendations on applications for admissions to any of the academic programmes offered by the University; and
  - (b) review entrance requirements into any of the University's academic programmes and make recommendations thereon to the Senate.

- (2) The Committee may, at its discretion, invite to its meetings such other persons as may be necessary to assist it in the performance of its functions.

*Composition and Membership of the Committee:*

- (3) The Committee shall consist of the following members:
- (a) the Vice Chancellor, who shall be the Chairman;
  - (b) the Pro Vice Chancellor;
  - (c) the Registrar;
  - (d) the Deans of Faculties;
  - (e) the Director of the Institute of Distance Education;
  - (f) the Director of the Institute of Post-Graduate Studies;
  - (g) the Librarian;
  - (h) the Faculty Tutors;
  - (i) the Co-ordinator of the Academic Studies Unit in the Institute of Distance Education;
  - (j) the Co-ordinator of the Institute of Post-Graduate Studies;
  - (k) the Bursar or his representative; and
  - (l) the Dean of Student Affairs.

A secretary shall be appointed from the Registrar's office and shall not be a member.

*Meetings of the Committee*

- (4) (1) The Committee shall hold at least two meetings in one academic year; one in each semester.  
(2) There may be a special meeting held at any other time of the year.  
(3) The quorum at meetings of the Committee shall be a simple majority (at least 51 percent) of the members and shall include the Vice Chancellor or the Pro Vice Chancellor.

*Termination of Membership*

- (5) Any member of the Committee may be terminated when he ceases to hold any of the above-mentioned positions.

THE ACADEMIC PLANNING COMMITTEE

*Establishment and Functions*

- (8) (1) There shall be an Academic Planning Committee of Senate which shall among other things:
- (a) advise Senate on all development planning matters of the University;
  - (b) evaluate, determine and recommend approval or otherwise the viability of all development projects formulated by Faculties, Centres and Units;
  - (c) serve as a hub for all planning activities of the University;
  - (d) formulate policies governing the establishment of new academic and administrative positions;

- (e) serve as the authority in the establishment of new academic and administrative positions;
- (f) evaluate, determine and recommend approval or otherwise of the viability of academic programmes recommended by Departments;
- (g) formulate policies governing link programmes with institution of higher learning, industry and other stakeholders in society.

*Composition and Membership of the Academic Planning Committee*

(2) The Committee shall consist of the following members:

- (a) the Vice Chancellor who shall be the Chairperson of the Committee;
- (b) the Pro Vice Chancellor;
- (c) the Registrar;
- (d) the Librarian;
- (e) the Bursar;
- (f) all Deans of Faculties and;
- (g) the Director of the University Planning Centre;
- (h) the Physical Planner;
- (i) the Dean of Student Affairs;
- (j) the Director of the Institute of Distance Education; and
- (k) the Director of the Institute of Post Graduate Studies.

A secretary shall be appointed from the Registrar's office, and shall not be a member of the Committee;

*Meetings of the Academic Planning Committee*

- (3) (1) The Committee shall hold at least two meetings in one academic year; one in each semester.
- (2) There may be a special meeting held at any other time of the year at the instance of the Vice Chancellor.
- (3) The quorum at meetings of the Committee shall be a simple majority of at least fifty one percent (51%) of the members and shall include the Vice Chancellor or the Pro Vice Chancellor.

*Termination of Membership*

(4) Any member of the Committee, may be terminated when he/she ceases to hold office in any of the above-mentioned positions.

**THE SENATE LIBRARY COMMITTEE**

*Establishment and Functions*

- (9) (1) There shall be a Library Committee of Senate which shall among other things:
  - (a) act as an advisory body that provides a forum for the provision of advice and guidelines on the strategic operation of the University Libraries;

- (b) recommend to Senate policies and procedures guiding the provision of library and information services;
- (c) advise the Vice Chancellor and Senate on the strategic direction of Library policy in the context of information access and provision to support research, teaching and learning;
- (d) advise the Librarian on University community information needs;
- (e) consult with and advise the wider University community on issues related to information resources and service delivery;
- (f) advise on the distribution of the library budget and monitor expenditure;
- (g) and perform any other ancillary duties assigned by the Senate.

*Composition and Membership of the Committee*

- (2) The Committee shall consist of the following:
  - (a) the Librarian, who shall be the Chairman;
  - (b) all Library academic staff;
  - (c) representatives from each Faculty of the University;
  - (d) a representative from the Institute of Distance Education;
  - (e) a representative from the Institute of Post Graduate Studies;
  - (f) the Dean of Student Affairs;
  - (g) Three (3) undergraduate student representatives, one from each campus;
  - (h) one (1) postgraduate student representative; and
  - (i) one (1) student representative from the Institute of Distance Education;

A secretary shall be appointed from the Registrar's office and shall not be a member of the Committee.

*Meetings of the Committee*

- (3)
  - (1) The Committee shall hold at least four meetings in one academic year; two in each semester.
  - (2) There may be a special meeting held at any other time of the year at the instance of the Chairman.
  - (3) The quorum at meetings of the Committee shall be a simple majority of at least fifty one percent (51%) of the members and shall include the Librarian or Deputy Librarian.
  - (4) Any member of the Committee, may be terminated when he ceases to hold office in any of the above-mentioned positions.

**SENATE BOARD OF AFFILIATED INSTITUTIONS**

*Establishment and Functions*

- (10)
  - (1) There shall be established a Senate Board of Affiliated Institutions which shall among other things:
    - (a) consider and approve academic programmes offered by Colleges and /or Institutions affiliated to the Universities;

- (b) consider and approve the students results recommended to it by the Colleges and/or Institutions;
- (c) recommend to the Senate the award of certificates, diplomas and conferment of degrees to graduates of the Colleges and /or Institutions affiliated to the University;
- (d) monitor the quality of programmes; and
- (e) perform any other ancillary duties assigned by the Senate.

*Composition and Membership of the Committee*

(2) The Committee shall comprise of the following members:

- (a) the Pro Vice Chancellor, who shall be the Chairman;
- (b) the Principals and Deputy Principals of colleges and/or institutions;
- (c) the Deans of the relevant Faculties; and
- (d) the Heads of relevant Departments of the relevant Faculties.

A secretary shall be appointed by the Registrar's office and shall not be a member of the Committee.

*Meetings of the Board*

- (3) (1) The Committee shall meet at such time and place as the Chairman may Determine.
- (2) A simple majority of at least fifty one percent (51%) of the Committee members including the Chairman, shall constitute a quorum.

*Termination of Membership*

(4) Any member of the Board, may be terminated when he/she ceases to hold office in any of the above-mentioned positions.

**THE FINANCE COMMITTEE**

*Establishment and Functions of the Finance Committee*

21. (1) There shall be a Finance Committee which shall advise the Council on all financial matters of the University.

(2) The Finance Committee shall-

- (a) formulate and recommend for approval by the Council of the financial policy and physical development of the University;
- (b) consider and recommend for approval by the Council of the estimates of income and expenditure to carry out the functions of the University.
- (c) review the recurrent and capital expenditure of the University, and make provision for replacement of major capital equipment;
- (d) consider the financial implications of proposals from the Administration and the various Committees of the Council and from the Senate;
- (e) review the annual income available to the University by way of bequests, donations, or special grants and make recommendations to the Council for their disposition;
- (f) ensure the satisfactory and timeous audit of accounts of the University and make such recommendations to the Council as may be necessary;

- (g) recommend for approval by the Council of the financial Regulations of the University and amendments thereto,
- (h) administer the University Special Fund;
- (i) determine and implement the insurance coverage for the properties and assets of the University and such risks as may be expedient to cover and ensure that the policies are in force and effective; and
- (j) undertake such other functions as may, from time to time, be delegated to it by the Council.

*Membership of the Finance Committee*

22. (1) The Committee shall consist of the following members -
- (a) the Chairman of Council who shall be the Chairman of the Committee.
  - (b) the Vice-Chancellor.
  - (c) the Pro-Vice Chancellor,
  - (d) one member from those nominated by the Chancellor,
  - (e) the Principal Secretary, Ministry of Education,
  - (f) the Principal Secretary, Ministry of Public Service and Information,
  - (g) the Principal Secretary, Ministry of Finance,
  - (h) the Principal Secretary, Ministry of Economic Planning and Development,
  - (i) the Dean, Faculty of Agriculture,
  - (j) two representatives of the Academic Staff, who are members of Council,
  - (k) the Physical Planner,
  - (l) the Registrar, and
  - (m) the Bursar who shall be the Secretary.
- (2) The Committee may, at its discretion, invite such other persons as may be necessary to assist it in the performance of its functions to attend any of its meetings.
- (3) The Committee may establish such sub-committees as it may deem necessary to assist it in the performance of its functions.

*Meetings of the Committee*

23. (1) The Committee shall hold an Ordinary Meeting prior to every Ordinary Meeting of the Council.
- (2) A Special Meeting of the Committee shall be held at any other time at the instance of either the Chairman of the Council or the Vice-Chancellor.
- (3) The quorum at meetings of the Committee shall be five members and shall include the Vice-Chancellor or the Pro-Vice Chancellor.
- (4) Where there is no quorum the meeting shall be adjourned.

**THE GENERAL SERVICES COMMITTEE**

*Establishment and Function*

24. (1) There shall be a General Services Committee which shall be responsible to the Council through the Vice-Chancellor for the functions imposed upon it under paragraph (2)
- (2) The Committee shall-
- (a) formulate policies concerning the maintenance of the property of the University and advise the Vice-Chancellor on such executive action as may be deemed necessary;



- (b) supervise the taking and keeping of inventories of all the properties and assets of the University;
- (c) ensure the security of all property of the University;
- (d) undertake such other functions as may, from time to time, be determined by the Council.

*Membership of the Committee*

25. (1) The Committee shall consist of the following members -

- (a) the Vice-Chancellor who shall be the Chairman of the Committee;
- (b) the Pro-Vice-Chancellor;
- (c) the Bursar;
- (d) the Dean, Faculty of Agriculture;
- (e) the Physical Planner;
- (f) the Registrar.

(2) The Committee may invite such other persons as may be necessary to attend any of its meetings to assist in the performance of its functions.

(3) The Committee may establish such sub-committees as it may deem necessary to assist it in the performance of its functions.

*Meetings of the Committee*

26. (1) The General Services Committee shall hold two or more Ordinary Meetings in each Semester.

(2) A Special Meeting shall be held at such time and place as the Chairman may determine, or at the written request of not less than four members of the Committee.

(3) The quorum for a meeting of the General Services Committee shall be four members who shall include the Vice-Chancellor or the Pro-Vice-Chancellor.

**THE BUILDING AND TENDERS COMMITTEE**

*Establishment and Functions*

27. (1) there shall be a Buildings and Tenders Committee of the Council which shall advise the Council on the growth and development of the University.

(2) The Committee shall -

- (a) implement the development plans of the University in accordance with the principles established by the Council;
- (b) submit a time schedule for the implementation of the development plan, and any changes, additions and modifications that may be recommended;
- (c) recommend estimates of the capital and recurrent costs of proposed developments to the Finance Committee, together with a phased programme of the required capital expenditure;
- (d) ensure that any changes in the structure and nature of the University are clearly set out with their effect on staff requirements, facilities and recurrent costs;
- (e) ensure that full consultation takes place with the Government, the benefactors and donors who are willing to help finance certain aspects of the development of the University and such other parts who have an interest in or may be affected by the development of the University;

- (f) recommend the appointment of architects and such other professional consultants as may be required;
- (g) receive reports on the location of projects, the design or buildings, and the construction of all works undertaken by and on behalf of the University; and
- (h) accepts tenders from contractors in respect of:
  - (i) building programs approved by the Council; and
  - (ii) Such goods or services as the Council may determine.

(3) Committee shall consult with the Finance Committee on all matters which fall within its functions and submit regular reports thereon to the Council.

*Membership of the Committee*

28. (1) The Committee shall consists of the following members -
- (a) The Vice-Chancellor who shall be the Chairman of the Committee;
  - (b) The Chairman of Council;
  - (c) The Pro-vice-Chancellor;
  - (d) The Dean, Faculty of Agriculture;
  - (e) Quantity surveyor from the Ministry of Works, Power and Communications;
  - (f) The Bursar;
  - (g) The Registrar; and
  - (h) The Physical Planner who shall be the Secretary.
- (2) The Committee may invite such other persons as may be necessary to attend any of its meetings to assist it in the performance of its functions.
- (3) The Committee may establish such sub-committees as it may deem necessary to assist in the performance of its functions.

*Meetings of the Committee*

29. (1) The Committee shall hold two or more Ordinary Meetings in each Semester.,
- (2) A Special Meeting of the Committee shall be held at such time and place as the Chairman may determine or at the request of the Council.
- (3) The quorum for a Meeting of the Buildings and Tenders Committee shall be four members and shall include the Vice-Chancellor or the Pro-Vice-Chancellor.

**THE ACADEMIC AND ADMINISTRATIVE STAFF COMMITTEE**

*Establishment and Functions*

30. (1) there shall be an Academic and Administrative Staff Committee of Council.
- (2) The Committee shall:
- (a) Recommend to Council the appointment of members of the academic, administrative, library and other;
  - (b) Recommend, at its discretion, the retention of such staff beyond the age of retirement as may be necessary;
  - (c) Recommend the extension or no-renewal of contracts of members of staff;

- (d) Determine the status and entry point on the salary scale of all staff recommended for appointment;
- (e) Arrange for the interview of candidates being considered for appointment;
- (f) carry out an annual review of the status of all members of the academic and administrative staff and make such recommendations as may be necessary; and
- (g) Review, from time to time, the terms and conditions of service of the academic and administrative staff and make such recommendations thereon as may be necessary.

*Composition and Membership of the Committee*

- (3) The Committee shall consist of the following members:
  - (a) The Vice-Chancellor who shall be the Chairman of the Committee;
  - (b) The Pro-Vice-Chancellor;
  - (c) The Deans of Faculties;
  - (d) Two professors appointed by the Vice-Chancellor;
  - (e) The Librarian;
  - (f) The Bursar;
  - (g) The Registrar; and
  - (h) A member of Council appointed by the Chairman of Council and with the approval of Council.

A secretary shall be appointed from the Registrar's office and shall not be a member of the Committee.

*Meetings of the Committee*

- (4) The committee shall meet at such a time and place as the Chairman may determine
- (5) The quorum at Meetings of the Committee shall be five members and shall include the Vice-Chancellor or the Pro-Vice-Chancellor.

*Termination or membership*

- (6) Any member of the committee, may be terminated when he/she ceases to hold office of in any of the above-mentioned positions.

**THE ADMINISTRATIVE MANAGEMENT COMMITTEE**

*Establishments and functions*

31. (1) There shall be established AN Administrative Management Committee of Council which shall, among other things:

- (a) be responsible for the implementation of University Policy;
- (b) be responsible for ensuring the implementation of any University Strategic Plan;
- (c) make decisions. Within the framework of the University statutes. On operational administrative and operational academic matters;

- (d) be responsible for the implementation of all council decision on both operational academic and operational administrative matters; and
- (e) Make decisions on all operational academic and operational administrative matters referred to it by the other University Committees.

*Composition and Membership of the Committee*

(2) The committee shall comprise of the following members:

- (a) the Vice-Chancellor, who shall be the Chairperson of the Committee;
- (b) the Pro Vice Chancellor;
- (c) The Registrar;
- (d) the Bursar; and
- (e) The Librarian.

A secretary shall be appointed by the Registrar's office shall not be a member of the Committee

*Meetings of the committee*

(3) The Committee shall meet at such time and place as the Chairman may determine

(4) A quorum of the committee will be formed if three members of the committee are present, including the Vice Chancellor OR THE Pro Vice Chancellor.

*Termination of Members*

(5) Any member of the committee may be terminated when he/she ceases to hold office in any of the above-mentioned positions.

**COMMITTEES OF COUNCIL**

The council may, subject to such conditions as it may impose, delegate to any committee, any of its functions:

**THE UNIVERSITY STAFF DISCIPLINARY COMMITTEE**

*Establishment and functions*

32. (1) there shall be established a University Staff Disciplinary Committee of council which shall, among other things:

- (a) be responsible for the discipline of all staff members of the University;
- (b) impose any penalties it may deem appropriate in any given matter before it; and
- (c) Submit report to council on all matters before it and action taken, from time to time or as required.

*Composition and Membership of the Committee*

(2) The committee shall comprise of the following members:

- (a) a Chairman, who shall have a legal background, appointed by the Chairman of Council with the approval of Council, who shall not be a member of the Council, the Academic and Administrative Staff Committee and the Nonacademic Staff Committee.
- (b) Two University staff Members appointed by the chairman of Council, with the approval of Council, who shall not be members of Council, the Academic and Administrative Staff Committee and Non Academic Staff Committee: and
- (c) Two University staff members appointed by the Vice Chancellor provided they are not members of Council, the Academic and Administrative Staff Committee.

A secretary of the Committee shall be appointed by the Registrar and shall not be a member of the Committee.

*Term of office*

- (3) (1) all other members of the Committee will serve for a period of four years and are eligible For re-appointment.
- (2) The Chairperson of the Committee shall serve for period of one year and is eligible for Re-appointment.

*Meetings of the Committee*

- (4) The Committee shall meet at such time and place as the Chairman may determine.
- (5) a quorum of the meeting will be formed if three members of the Committee are present, including the Chairman.

*Termination of Members*

- (6) any member of the Board may be terminated on any one of the following grounds:
  - (a) ceases to a member of the University;
  - (b) expiry of the term of office; and
  - (c) Registration in writing subjects to a three month notice.

**THE ACADEMIC AND ADMINISTRATIVE STAFF PROMMOTIONS COMMITTEE**

*Establishment and functions*

33. (1) there shall be an Academic and Administrative Staff Promotions Committee of the council which shall-

- (a) work out the criteria for promotion of staff; and
- (b) consider and, if thought fit, recommended to the council the promotion of members of the Academic, Administrative and other staff to higher posts on terms and conditions of services appropriate to such posts.

**Composition and Membership of the Committee**

(2) The Committee shall consist of the following members:

- (d) The Vice-Chancellor who shall not be Chairman of the Committee;
- (e) The Pro-Vice-Chancellor;
- (f) One Professor from each Faculty appointed by the Vice-Chancellor;
- (g) One Professor from the Institute of Distance Education appointed by the Vice Chancellor;
- (h) One Professor from the Institute of Post Graduate Studies appointed by the Vice Chancellor; and
- (i) The Registrar, who shall be the secretary of the Committee but with no voting powers.

**Termination of Membership**

- (4) any members of the Committee may be terminated when he/ she ceases to hold office in any of the above-mentioned positions;

**THE NON-ACADAMIC STAFF COMMITTEE**

**Establishment and functions**

33. (1) there shall be a Non Academic Staff Committee of Council which shall among other things;

- (a) Recommended to Council the appointment of members of the non academic staff of the University,
- (b) Recommend at its discretion, the reaction of such nonacademic staff beyond the age of retirement as may be necessary;
- (c) Recommend the extension or non renewal of contracts of members of the nonacademic staff; and
- (d) Determine the status and salary of the non academic staff recommended for appointment;

**Compositions and Membership of the Committee**

(2) The Committee shall consist of the following members;

- (a) the Vice Chancellor who shall be the Chairman;
- (b) the Pro Vice Chancellor;
- (c) the Assistant Registrar of the Luyengo and the Mbabane Campuses;
- (d) the Librarian;
- (e) the Bursar;
- (f) a Members of Council appointed by the Chairman of Council with Council approval; and
- (g) the Registrar

A secretary appointed by the Registrar's office and shall not be members of the Committee.

#### *Meetings of the Committee*

(3) (1) the Committee shall meet at such time and place as the chairman

(2) The quorum at the meeting of the Committee shall be four members and include the Vice Chancellor or the Pro- Vice Chancellor.

#### *Termination of Membership*

(4) Any member of the Committee may be terminated when he/she ceases to hold office in any of the above-mentioned positions.

#### *Other Committees*

34. (1) The Council, Senate and Faculty Boards may, from time to time, set up such standing, special, joint or advisory committees as may be necessary and may; if thought fit, appoint thereto person who are not members of the appointing bodies. Such Committees may deal with matters delegated to them subject to subsequent confirmation by the appointing body.

(2) Subject to any limitation placed on it by the appointing body, a committee referred to in paragraph (1) may regulate its own procedure.

(3) The vice- Chancellor and the Chairman of the Council shall be ex-officio members of all committees of the Council.

(4) The Vice- Chancellor and the Pro-Vice Chancellor shall be ex-officio members of all committee of the Senate.

(5) The Deans of the Faculties shall be ex-officio members of all Committees of their respective faculties.

#### *Appointment and Duties Academic and Administrative Staff*

35. (1) the Academic Staff of the University shall consists of the Vice Chancellor, professor, Associate Professor, Senior Lecturer, Research fellows, the Librarian and such members off the Librarian and such members of the Library Staff as may be designated by the Senate.

(2) The Administrative Staff shall consist of the Registrar and Bursar and such members of their department as may be appointed on similar terms of service to the Academic Staff.

(3) a member of the Academic or Administrative Staff shall be assigned by the Vice - chancellor to a Faculty, Academic Department of a Faculty, an institute , Division , the Library or the Administrative Organization of the University on the advice of the Academic and Administrative Staff Committee.

(4) A member of the Academic Staff shall hold office under the terms and conditions of this statute, any Regulations made thereunder, and any resolutions of the Council, and upon such further terms and conditions as may be specified in his letter of appointment.

(5) The Vice Chancellor may, from time to time, appoint part-time lecturers on the Head or Acting Head of the Department and may recommend the appointment of visiting Academic Staff.

(6) The Director of an Institute which is a constituent part of a faculty shall be responsible to the Dean for the work of the Institute and shall co-operate with him in the co-ordination and development of the work of the Faculty.

(7) The Director of a division which is not a constituent part of a faculty shall be responsible to the Vice-Chancellor for the general organization and activities of the Division.

(8) A member of the Academic staff who is a member of an academic department shall be responsible to the Head of the Department and thereafter to the Dean and to the Vice-Chancellor.

(9) A member of the academic staff of an Institute which is constituent part of a faculty shall be responsible to the Director of the Institute and thereafter to the Dean and to the Vice Chancellor.

(10) A member of the academic staff of an Institute which is not a constituent part of a Faculty shall be responsible to the Director of the institute and thereafter to the Vice-Chancellor except that each member of a Division of an Institute shall be responsible to the Head of that Division and thereafter to the Director of the Institute and to the Vice-Chancellor.

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(11) a member of the Library staff shall be responsible to the Librarian and thereafter to the Vice-Chancellor.

(12) A member of the administrative staff shall be responsible to the Head of Department concerned and thereafter to the Vice-Chancellor

(13) Each member of the academic and administrative staff shall be ultimately responsible through the Vice-Chancellor.

(14) a member of the academic staff shall carry out such teaching, research, examining, invigilation and such other duties as may be determined by the Senate, the Dean of the Faculty or the Head of the academic department or the Director of the Institute, as the case may be, and shall also attend Faculty Board meetings.

(15) Except where the Vice-Chancellor, in writing, may otherwise determine, every member of the academic and administrative staff shall reside within reasonable distance of the university to enable him to devote his full time and attention to the diligent performance of their duties required of him by the University. Members of staff shall be expected to be at their place of work during all normal working hours.



- (16) No members of the academic or administrative staff may engage in the conduct of any profession, trade, or business which conflicts with his normal duties without the written permission of the Vice-Chancellor.
- (17) No member of the Academic Staff may undertake academic duties outside his own Faculty, Department, Institute or Division, without the Vice-Chancellor's express consent.
- (18) No members of the academic and administrative staff may leave the country without permission from the Vice-Chancellor.
- (19) The Council may make Regulations with respect to the terms, conditions of the service and manner of appointment of the members of the Academic and Administrative Staff and may, from time to time, vary or revoke any such Regulation.
- (20) No appointment shall be made to any vacant post in the University unless the vacancy for that post has been publicly advertised for a reasonable period in such manner as the Council shall determine.
- (21) Every appointment or offer of a appointment to a person who is not a citizen of Swaziland is subject to his obtaining a residence permit be refused or withdrawn, the appointment shall lapse.

*Appointment and Duties of Non-Academic Staff*

36. (1) The non-Academic staff of the University shall consist of all the staff of the University, other than the Academic and Administrative Staff as defined in Statute 40, as may be appointed by the University in accordance with the Act and Statutes.
- (2) A member of the Non-Academic Staff shall be assigned by the Vice-chancellor to an office or section within the Administrative structure of the university on the advice of the Non-Academic Staff Committee.
- (3) A member of the Non-Academic Staff shall hold office under the terms of this statute and of any Regulations made under it, and of any resolution of the Council and upon the Terms of his appointment and conditions of services.
- (4) A member of the Non-Academic Staff shall be immediately responsible to the Head of the office or Section to which he is appointed.
- (5) The Head of an office shall be responsible to the Council through the Head of Department and Vice-Chancellor for the general organization and efficiency of that office or section.

- (6) It shall be the study of each member of the Non-Academic Staff to carry out work required of him by the Head of his Department through the Head of the Office or Section to which he has been appointed.
- (7) No member of the Non-Academic Staff may engage in the conduct of any profession , trade or business which conflicts with his normal duties without the written permission of the Vice-Chancellor
- (8) Every appointment and offer of appointment to a member of the Non-Academic staff who is not a citizen of Swaziland shall be subject to his obtaining a residence permit required by law
- (9) No appointment shall be made to any vacant post in the University unless the vacant for that been advertised, I such manner as the Council may determine for a reasonable period.

## **FACULTIES**

37. (1) There shall be established the following faculties:

- (a) the Faculty of Agriculture;
- (b) the Faculty of Commerce;
- (c) the Faculty of Education;
- (d) the Faculty of Health Science;
- (e) the Faculty of Humanities;
- (f) the Faculty of Science;
- (g) the Faculty of Social Science;

(2) The faculties shall consist of the full-time and part-time teaching members of the Academic staff and students, all of whom shall be grouped according to their academic subjects.

(3) Each Faculty shall consist of such constituents Departments or their equivalents as the Senate may, from time to time, determine.

(4) Each Department shall be regarded for administrative purpose as a constituent part of one Faculty, but May, in relation to any other faculty in which a Department has teaching or other commitments, have one representative full member of that Faculty.

(5) A faculty may make a recommendation to the Senate with regard to any Department or Institute which, in its view, ought to be a part of the Faculty.

## **THE FACULTY OF AGRICULTURE**

(6) The faculty of agriculture shall include the following constituent Departments:

- (a) Animal production and Health;
- (b) Agriculture Education and extension ;
- (c) Agricultural Economics and Management
- (d) Crop Production;
- (e) Home Economics; and
- (f) Land Use and Mechanization

#### **THE FACULTY OF COMMERCE**

(7)The Faculty of Commerce shall include the following Departments:

- (a) Accounting and;
- (b) Business Administrative.

#### **FACULTY OF EDUCATION**

(8) The Faculty of Education shall include the following Departments

- (a) Adult Education;
- (b) Curriculum and Teaching;
- (c) Educational Foundations and Management;
- (d) In-Service Education; and
- (e) Primary Education.

#### **THE FACULTY OF HEALTH SCIENCES**

(9) The Faculty of Health Science shall include the following Departments:

- (a) Community Health Nursing Science;
- (b) Environmental Health Science;
- (c) General Nursing; and
- (d) Midwifery Science;

#### **FACULTY OF HUMANITIES**

(10) The faculty of Humanities shall include the following Departments:

- (a) Academic Communication Skills;
- (b) African Languages and Literature;
- (c) English Language and Literature;
- (d) History;
- (e) Modern Language; and
- (f) Theology and Religious Studies.

## THE FACULTY OF SCIENCE

- (11) The faculty of science shall include the following Departments:
- (a) Biological Sciences;
  - (b) Chemistry;
  - (c) Computer Science;
  - (d) Electronic Engineering;
  - (e) Geography, Environmental Science and Planning;
  - (f) Mathematics; and
  - (g) Physics.

## THE FACULTY OF SOCIAL SCIENCE

- (12) The Faculty of Social Science shall include the following Departments:
- (a) Economics;
  - (b) Law;
  - (c) Political and administrative studies;
  - (d) Sociology, and
  - (e) Statistics and demography;

## FACULTY BOARDS

### *Establishment and functions*

38. There shall be a Faculty Board of each Faculty which shall ;

- (a) consider and report to the Senate upon all matters relating to the studies within its scope, including the definition of courses and the examination of students;
- (b) supervise the teaching of those subjects which are the concern of the Faculty;
- (c) advise the Senate on all persons who may be considered for admission to post-graduate studies in the Faculty;
- (d) recommend to the Senate the names of external examiners for appointment;
- (e) recommend to the Senate the award of degrees; diplomas, certificates and other awards of the Faculty;
- (f) consider and report on matters relating to research within the Faculty;
- (g) consider and report on matters referred to the Faculty by the Senate;
- (h) prepare financial estimates for functions which the Faculty proposes to undertake for submission to the Senate;
- (i) perform such other duties and exercise such powers as may, from time to time, be assigned to the Faculty by the Senate.

### *Membership of Faculty Boards*

40. (1) A Faculty Board shall consist of the following members
- (a) the Vice-Chancellor;
  - (b) the Pro-Vice-Chancellor;
  - (c) the Dean of the Faculty, who shall be Chairman;

- (d) the Professors and Heads of Departments within the Faculty, and all other full-time and part-time teaching members of the Academic Staff within the Faculty;  
Provided that the part-time teaching members shall have no voting rights;
  - (e) one representative of each of the Faculties;
  - (f) the Librarian or his representative; and  
such number of student representatives not being more than two as the Faculty Board may determine, who shall be elected from any of the faculties and who shall hold office for a period of one academic year.
- (2) The Faculty Board may, with the approval of the Vice-Chancellor, invite such persons as may be necessary to attend any of its meetings to assist it in the performance of its functions but who shall have no right to vote.
- (3) The quorum at Faculty Board meetings shall be one-third of the full-time teaching members of the Faculty.

## DEPARTMENTAL BOARDS

### *Establishment and Functions*

- (41) There shall be a Departmental Board of each Department which shall:-
- (a) oversee the general organization of courses of study, including syllabuses and the prescription of books;
  - (b) make appropriate recommendations to the Faculty Board for the development of courses;
  - (c) oversee the general organization of research within the Department; and
  - (d) be responsible for recommending to the Faculty Board the appointment of an external examiner.

### *Membership of Departmental Boards*

42. (1) A Departmental Board shall consist of the following members:-
- (a) the Vice-Chancellor;
  - (b) the Pro Vice-Chancellor;
  - (c) the Head of Department, who shall be Chairman of the Departmental board;
  - (d) the Faculty Tutor;
  - (e) all full-time teaching members of the academic staff of the Department;
  - (f) two student members elected by the students of the Department for a period of one academic year; and
  - (g) part-time teaching members who may attend at the invitation of the Head of Department.
- (2) The quorum at Departmental Board meetings shall be one-third of the members of the Departmental Board.
- (3) The Departmental Board shall hold at least two meetings each Semester.

## CENTRES, INSTITUTES, UNITS AND FOUNDATIONS

### *Establishment*

43. (1) There shall be established the following Centres, Units, Foundations and Committees:
- (a) the Academic Development Centre (ADC)
  - (b) the University Book Shop
  - (c) the Centre for Community Services (CCS)
  - (d) the Consultancy and Training Centre (CTC)
  - (e) the UNISWA Health Information and Counselling Centre (HICC)
  - (f) the Information and Communication Technology Centre
  - (g) the Institute of Distance Education (IDE)
  - (h) the Institute of Post Graduate Studies
  - (i) the University Research Centre
  - (j) the Swaziland Institute for Research in Traditional Medicine, Medical and Indigenous Food Plants (SIRMIP)
  - (k) the University Planning Centre (UPC)
  - (l) the Student Welfare Unit
  - (m) the UNISWA Foundation
  - (n) the University Farm.

(2) The Directors and Heads of Centres, Institutes, Units and Foundations shall be appointed by the Vice Chancellor.

#### *Functions*

#### **THE ACADEMIC DEVELOPMENT CENTRE**

- (3) The Academic Development Centre shall be responsible for, but not limited to:
- (a) organizing in service activities on basic teaching skills for academic staff;
  - (b) assisting staff in the development of teaching and /or learning material;
  - (c) providing guidance on methods of evaluations for all academic staff;
  - (d) administering students' assessment of staff performance and provide feedback to staff; and
  - (e) organizing in service activities for the administrative staff of the University.

#### **THE UNIVERSITY BOOKSHOP**

- (4) The University Book Shop shall be responsible for, but not limited to:
- (a) the sale of books to University students and members; and
  - (b) the ordering of books required by the University staff and students.

#### **THE CENTRE FOR COMMUNITY SERVICES**

- (5) The Centre for Community Services (CCS) shall be responsible for, but not limited to:

- (a) the development of an inventory of the University's capacity for providing community service;
- (b) the formulation of University Community Service Policy and Guideline;
- (c) the documentation, packaging and dissemination of information arising from teaching and research for the benefit of the Institutions' community service clientele; and
- (d) the facilitation, harmonizing, coordinating and monitoring the formulation and implementation of Community Service projects and programmes.

#### **THE CONSULTANCY AND TRAINING CENTRE**

- (6) The Consultancy and Training Centre (CTC) shall be responsible for, but not limited to:
  - (a) the identification of consultancy and training needs of University clients;
  - (b) the translation of stakeholder requests into tangible products, desired outcomes or needed outputs; and
  - (c) the marketing of the services and products of the University.

#### **THE UNISWA HEALTH, INFORMATION AND COUNSELLING CENTRE**

- (7) The UNISWA Health, Information and Counselling Centre (HICC) shall be responsible for, but not limited to:
  - (a) the dissemination of information on health and wellness;
  - (b) the provision of counseling services;
  - (c) the provision of in service training on HIV/AIDS for students and staff; and
  - (d) the facilitation and conducting of HIV/AIDS testing.

#### **THE INFORMATION AND COMMUNICATION TECHNOLOGY CENTRE**

- (8) The Information and Technology Centre shall be responsible for, but not limited to:
  - (a) providing internet access to all University Campuses;
  - (b) providing service to all University internet users; and
  - (c) extending the local area network for University internet users.

#### **THE INSTITUTE OF DISTANCE LEARNING**

- (9) (1) The Institute of Distance Education shall be responsible for but not limited to:
  - (a) initiating, planning, designing and offering University programmes to off campus students using the distance education delivery mode;
  - (b) converting, coordinating and administering University programmes to off campus students;

- (c) ensuring, in collaboration with other University departments, equivalence and parity of standards between on campus and off campus University programmes;
- (d) establishing regional teaching and /or learning centre and;
- (e) recommending to Senate the award of University level certificates diplomas and degrees for the following programmes:

- (i) Certificate in French
- (ii) Diploma in Commerce
- (iii) Diploma in Law
- (iv) Bachelor of Arts (Humanities)
- (v) Bachelor of Education (Adult Education)
- (vi) Bachelor of Commerce

- (2) The Institute of Distance Education shall comprise of the following units:

- (a) the Academic Services Unit;
- (b) the Institutional Design and Development Unit;
- (c) the Student Support Services and;
- (d) the Research and Evaluation Unit.

#### THE INSTITUTE OF POST-GRADUATE STUDIES

(10)

- (a) There shall be the Institute of Post Graduate Studies, with a Board coordinating and offering post graduate programmes across the University;
- (b) The Director of the Institute, who shall be a Chairperson of the Board of the Institute of Post Graduate, shall be appointed by the Vice Chancellor.
- (c) There shall be a Coordinator appointed by the Vice Chancellor on the recommendation of the Director.
- (d) The membership, to include two post graduate students, of the Board of the Institute of Post Graduate Studies shall be determined by the Senate from time to time.
- (e) The Institute of Post Graduate Studies shall be responsible for, but not limited to:
  - (i) initiating, planning, designing and offering University programmes at the post graduate levels, including doctoral studies;
  - (ii) administering and coordinating post graduate studies in the University;
  - (iii) ensuring quality post graduate student research projects;
  - (iv) recommending to the Senate the award of post graduate degrees through the Board of the Institute of Post Graduate Studies;
  - (v) maintaining quality across all post graduate programmes;
  - (vi) establishing guidelines for supervision of post graduate students , to include the recommendations to Senate of supervisors and external examiners, and monitoring the progress of post graduate students;
  - (vii) maintaining clear lines of communication with each faculty and department offering post graduate studies; and
  - (viii) working to enhance the facilities available to post graduate students.



#### **THE UNIVERSITY RESEARCH CENTRE**

(11) The University Research Centre shall be responsible for, but not limited to:

- (a) address the research mandate of the University;
- (b) improve teaching standards at the University and;
- (c) contribute to the socio-economic development of the Swazi Nation and beyond.

#### **THE SWAZI AND INSTITUTE FOR RESEARCH IN TRADITIONAL MEDICINE, MEDICINAL AND INDIGENOUS FOOD PLANTS**

(12) The Swaziland Institute for Research in Traditional Medicine, Medicinal and Indigenous Food Plants (SIRMIP) shall amongst other things:

- (a) carry out multidisciplinary research on traditional medicine and on indigenous plants used for food and medicine and;
- (b) provide a forum for people of diverse disciplines interested in health and nutrition to collaborate.

#### **THE UNIVERSITY PLANNING CENTRE**

(13) The University Planning Centre (UPC) shall amongst other things:

- (a) serve as a technical planning centre and secretariat for the University Planning Board (UPB);
- (b) provide technical advice to the UPB regarding feasibility and viability of proposed new academic programmes and other projects of the University;
- (c) prepare, coordinate and monitor the implementation of action plans of all new programmes and projects of the University;
- (d) provide technical advice to the UPB on the need for new positions in the University ;
- (e) provide technical advice to the UPB on the feasibility and viability of the external links with other institutions;
- (f) facilitate, harmonise, coordinate and monitor the formulation and implementation work plans for Faculties and other units of the University;
- (g) harmonise and integrate academic, institutional, physical, human and financial resources when planning University programmes and projects;
- (i) conduct and coordinate institutional research to support the planning process in the University and;
- (j) prepare quarterly and annual reports for the University Planning Board.

#### **THE STUDENT WELFARE UNIT**

(14) (1) The Student Welfare Unit shall be responsible to the Vice Chancellor and shall among other things:

- (a) provide administrative services and counseling to all University students;
- (b) in consultation with the Vice Chancellor and the University Faculties, arrange for the orientation of all new University students at the beginning of each academic year;
- (c) in collaboration with the Student Representative Council (SRC) and Campus Governments ensure that all student grievances are attended and /or
- (d) raise student awareness and critical understanding of important documents of the University channeled to the appropriate University Committees;
- (e) in consultation with the University Faculties, Units and Centres, operate a counselling programme to address students' academic and social problems;
- (f) facilitate or foster the active involvement of students in all activities organized by the SRC and the Campus Governments;
- (g) strive to inculcate into students a sense of responsibility, commitment to work, promotion of ethical values and the building up of good relationships within the University community and the outside world;
- (h) provide basic health or medical services and accommodation to deserving University students and;
- (i) make available to the Vice Chancellor all minutes of the Students Affairs Committee.

#### *Membership of the Unit*

- (2) There shall be a Student Welfare Unit Committee established for the purpose of ensuring that the functions of the Student Welfare Unit are met and shall comprise of the following:
  - (a) the Dean of Student Affairs, who shall be the Chairperson;
  - (b) a representative appointed by the Registrar;
  - (c) the Physical Planner;
  - (d) a representative duly appointed by the Bursar;
  - (e) all Clerk of Works from all Campuses of the University;
  - (f) all Faculty Tutors from all Campuses of the University;
  - (g) all Domestic Bursars from all Campuses of the University;
  - (h) the Director of Transport;
  - (i) Transport Officers from all Campuses of the University;
  - (j) the Chief Security Officer;
  - (k) all Warders;
  - (l) all Campus Nurses;
  - (m) all Senior Security Officers from all University Campuses;
  - (n) the General Secretary of the SRC Executive;
  - (o) all Directors of Academic Affairs from all Campus Governments and;
  - (p) all Directors of Transport and Maintenance from all Campuses.

#### *Quorum*

- (4) The quorum of the Student Affairs Unit Committee shall be one third (1/3) of the members, including the Dean of Student Affairs.

#### *Meetings*

- (5) The Committee shall hold at least two meetings per semester or whenever appropriate.

#### **THE UNISWA FOUNDATION**

- (15) The UNISWA Foundation shall be responsible for, but not limited to:
- (a) stimulating discussion and consultation on the need for exploring alternative sources of funding for the University in collaboration with the office of the Vice Chancellor and the UPC and;
  - (b) securing resources to address the changing needs of the University by developing strategic partnerships with its stakeholders.

#### **THE UNIVERSITY FARM**

- (16) The University Farm shall be responsible for, but not limited to:
- (a) providing facilities for practical learning for students, staff and other interested parties.
  - (b) providing extension services in areas of comparative advantage;
  - (c) providing facilities for small scale research of relevance to the development of sustainable agriculture;
  - (d) developing a self-supporting capacity through improved revenue generation and;
  - (e) fostering the involvement of the University in commercial farming.

#### **CHAIRMAN OF COUNCIL**

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