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GOVERNMENT NOTICE

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

No. 476

20 June 2012

HIGHER EDUCATION ACT, 101 OF 1997**APPOINTMENT OF AN ADMINISTRATOR TO THE CENTRAL UNIVERSITY OF TECHNOLOGY**

I, Bonginkosi Emmanuel Nzimande, MP, Minister of Higher Education and Training, in terms of Section 41A of the Higher Education Act, 1997 (Act No. 101 of 1997), hereby appoint Prof Stanley Ridge as Administrator to the Central University of Technology, following the report of the Independent Assessor, Dr Julian Smith, into the affairs of the University. The terms of reference for this appointment are attached hereto.



Dr Bonginkosi Emmanuel Nzimande, MP
Minister of Higher Education and Training

Date: 18/06/12

MINISTER OF HIGHER EDUCATION AND TRAINING**TERMS OF REFERENCE****ADMINISTRATOR FOR CENTRAL UNIVERSITY OF TECHNOLOGY****PREAMBLE**

In terms of section 41A of the Higher Education Act, 1997 (Act No. 101 of 1997), as amended, the Minister of Education may appoint an Administrator for a public higher education institution, which states:

“41A Appointment of administrator

- (1) If an audit of the financial records of a public higher education institution, or an investigation by an independent assessor as contemplated in section 47, reveals financial or other mal-administration of a serious nature at a public higher education institution or the serious undermining of the effective functioning of a public higher education institution, the Minister may, after consultation with the council of the public higher education institution concerned, if practicable, and notwithstanding any other provision of this Act, appoint a person as administrator to take over the authority of the council or the management of the institution and perform the functions relating to governance or management on behalf of the institution for a period determined by the Minister, and such period may not exceed two years.**
- (2) The Minister may extend the period referred to in subsection (1) once for a further period not exceeding six months.**
- (3) Notwithstanding subsection (1), if a council is deemed to have resigned as contemplated in section 27(8), the Minister must appoint a person for a period of not longer than six months as an administrator on behalf of the institution to:**
 - (a) take over the authority of council;**
 - (b) perform the council’s functions relating to governance; and**
 - (c) ensure that a new council is constituted.”**

In terms of section 45(a) of the Higher Education Act, 1997 (Act 101 of 1997), the Minister of Higher Education and Training appointed an Independent Assessor to conduct an investigation into the affairs of Central University of Technology. The overall purpose of the investigation was to advise the Minister and University Council on:

- The nature of problems facing the institution, including those relating to governance, financial management and procurement practices, administration matters, transformation programme and any other matter that may arise.
- Measures required to resolve problems identified in all areas.
- Clear short, medium and long-term recommendations.

The terms of reference as contained in Notice No. 35084, published in Government Gazette No. 35333 of 11 May 2012, read as follows:

- Conduct a detailed analysis of and provide a report on the current situation of the university governance and executive management structures, in particular their functioning and efficacy, and relationships between the various structures and portfolios.
- Conduct an investigation into the alleged abuse of power and misuse of funds by the executive management of the university.
- Conduct a thorough investigation of the financial policy and procedures of the institution, with a specific focus on internal audit processes, procurement and tender procedures, expenditure on legal fees, donor funding management, the management of NSFAS allocations, and any other specific allegations of financial irregularity that may be brought to the attention of the Independent Assessor.
- Assess progress at the institution in terms of the implementation of its transformation programme.
- Investigate and report on any matters that, in the opinion of the Assessor, may impact on the effective functioning of the university, from the analysis of problems relating to governance and management.

And make recommendations on:

- Possible measures that could be undertaken in order to restore good governance, specifically in relation to the Executive Management of the University and its Council;
- Possible short, medium and long-term solutions required to address any issues identified in relation to the areas in the Terms of Reference;
- Any action required to ensure effective academic operations at the university; and
- Any other areas of action required to ensure the effective functioning of the university.

The Minister has received and considered the report of the Independent Assessor. It is evident in the report that there are serious problems in the governance and management of the University, which are undermining the effective functioning of the university. The key recommendations of the Independent Assessor are to:

1. Dissolve the University Council and appoint an Administrator to fulfil the duties of Council, while a new Council is being established.
2. Place the Vice-Chancellor, Prof Thandwa Mthembu on special leave pending the outcome of further investigation into the alleged abuse of power and victimisation including a full review of the position of the Vice-Chancellor.
3. The Administrator should give special attention to the alleged conduct of the Deputy Vice-Chancellor (Institutional Planning, Partnerships and Communication), Prof Tanvil Schultz, using as reference the KPMG Report and determining whether action is warranted in terms of the relevant disciplinary code.
4. The KPMG investigation be reactivated and expanded to include the Welkom campus, and for it to specifically be a forensic audit, with a focus on the management of grant/donor funding, the awarding and management of tenders, and the management of student financial aid.
5. Current investigations concerning staff and/or service sector units instituted by the Vice-Chancellor be placed on hold and that a moratorium be placed on new retrenchments.
6. A review be undertaken by an appropriate professional (not necessarily a person qualified in law) on past and present labour relations matters such as retrenchments, severances and disciplinary action, dating back to 2007.

The Director-General duly delegated by the Minister, met with the Council on 28 May 2012. A further opportunity was given to Council to present any relevant documentation and information. The Minister has considered all the information and documentation relevant to the matter, and the Minister has accepted the report and recommendations of the Independent Assessor. In this regard, **Dr BE Nzimande MP**, Minister of Higher Education and Training has decided to appoint Professor Stanley Ridge as Administrator for Central University of Technology in terms of section 41A of the Higher Education Act, with the following terms of reference:

TERMS OF REFERENCE

The general and specific terms of reference of the Administrator are:

- To take over the authority of the Council of Central University of Technology for a period not exceeding twelve months.

- To take over the authority of the Management and administration and to identify and initiate processes and initiatives to restore proper governance, management and administration at Central University of Technology, pending the outcome of the investigation into alleged abuse of power by the Vice-Chancellor.
- To steer the institution back to operational sustainability with an effective functional Council by managing the appointment of new Council members, including the review and establishment of the necessary Council sub-committees.
- To conduct a forensic audit into alleged irregularities and expand it to include management of grant/donor funding, awarding and management of tenders, and the management of student financial aid and any other matters that may arise. The investigation should be carried out in order to identify any corrupt practices and to institute appropriate action within the prescripts of the law.
- To draft and submit a new Statute for the University, to the Minister of Higher Education and Training.
- To conduct a detailed analysis of the human resource and financial management functions and implement systems necessary to restore governance, management and effective and efficient operations and viable systems and processes in these areas.
- To undertake a review on past and present labour relations matters, such as retrenchments, severances and disciplinary action, dating back to 2007.

The Administrator will report to the Minister of Higher Education and Training or his delegated officials. Besides other forms of communication and interaction with the Ministry and Department of Higher Education and Training, the Administrator must submit quarterly written reports on the progress regarding the above issues. The Administrator may appoint technical experts where necessary to assist in the different areas.

The Administrator will commence duty on the date of publication of this Notice.



Dr BE Nzimande MP
Minister of Higher Education and Training

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