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No. 27 of 1999.

Divine Word University Act 1999.

Certified on: 19.4.50

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 1999.

Divine Word University Act 1999.

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THE INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 1999

AN ACT

entitled

Divine Word University Act 1999.

Being an Act to provide for the establishment and incorporation of a University to be known as the Divine Word University, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice published in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I.- PRELIMINARY.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears -

“By-laws” means By-laws made by the Council of the University under this Act;

“Chairman” means the Chairman of the Council appointed under Section 6(1);

“Council” means the Council of the University established under Section 5;

“Provincial Council” means the Provincial Council for the time being of the Society of the Divine Word in Papua New Guinea;

“this Act” includes the By-laws;

“University” means the Divine Word University established and incorporated under Section 2.

(2) A reference in this Act to the holder of an office in the University shall be read as including a reference to a person for the time being performing the duties of that office.

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PART II. – THE UNIVERSITY.

Division 1 – Establishment and Functions.

2. ESTABLISHMENT AND INCORPORATION OF THE UNIVERSITY.

- (1) The Divine Word University is established.
- (2) The University is a body corporate to be known as “The Divine Word University” with a perpetual succession and a Common Seal and shall be capable in that name of -
 - (a) suing and being sued; and
 - (b) taking, purchasing and holding real and personal property (including property devised, bequeathed or given to the University); and
 - (c) granting, selling, alienating, assigning and demising real and personal property; and
 - (d) doing all other matters and things incidental or appertaining to a body corporate.
- (3) The Council may establish or maintain as part of the University such other college or institution as it deems necessary from time to time.

3. COMMON SEAL.

- (1) The common seal of the University shall be kept in such custody as the Council directs and shall not be used except upon the orders of the Council or in a manner as authorized by the By-laws.
- (2) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the University affixed to any document and shall presume that it was duly fixed.

4. FUNCTIONS OF THE UNIVERSITY.

The functions of the University shall include the following:-

- (a) to encourage and provide facilities for study and education in all subjects and to give instruction and training in all branches of learning and skills;
- (b) to provide for research into all branches of learning and to assist in its practical application;
- (c) subject to the By-laws, to award and confer degrees, diplomas, certificates and other academic honours;
- (d) to provide facilities for higher education throughout Papua New Guinea by the affiliation of educational institutions, by the establishment of tutorial classes, correspondence classes, extension

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classes and vocation classes and by such other means as the Council deems appropriate;

- (e) to liaise, collaborate and reciprocate with other institutions of learning and training institutions, inside or outside Papua New Guinea, in the provision of facilities, the recognition of degrees, diplomas and certificates and other status and the interchange of staff, students and information, and in any other way not inconsistent with its status as the University.

Division 2. - Council of the University.

5. **COUNCIL OF THE UNIVERSITY.**

- (1) The Council is established.
(2) The governing body of the University shall be the Council.

6. **CONSTITUTION OF COUNCIL OF THE UNIVERSITY.**

- (1) The Council shall consist of -
- (a) the Chairman, who shall be appointed by the person for the time being holding the position of Head of the Mission of the Society of the Divine Word established pursuant to the *Roman Catholic Society of the Divine Word Mission Act* (Chapter 1030); and
 - (b) the following persons, who shall be *ex officio* members -
 - (i) the President of the University; and
 - (ii) the Head of the Mission of the Province of the Society of the Divine Word; and
 - (c) four other persons appointed by the Provincial Council of the Society of the Divine Word; and
 - (d) not more than six other persons appointed to the Council by the Council of the University.

(2) A member of the Council referred to in Subsection (1)(a), (c) and (d) shall hold office subject to this Act for such period as is fixed by the Council, not exceeding four years commencing from the time of his appointment.

(3) A member of the Council referred to in Subsection (1)(a), (c) and (d) is eligible for reappointment.

7. **FUNCTIONS OF THE COUNCIL.**

Subject to this Act, the functions of the Council are -

- (a) to promote and ensure attainment of the objectives of the University; and

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- (b) to determine University mission and monitor the performance of the University in terms of its mission; and
- (c) to formulate university policies and planning guidelines for University management; and
- (d) to appoint University officers and academic, administrative and other staff of the University; and
- (e) to have the charge of the management and administration of the revenue, property and personnel of the University, and the conduct of all matters relating to the University not otherwise provided for in or under the By-law made in accordance with this Act; and
- (f) to approve the Annual Report, Annual Accounts, Audit Report thereon and the budget of the University for the next financial year; and
- (g) to exercise such other powers and perform such other duties as may be conferred on it by this Act; and
- (h) generally, to take such action in a manner as appears to it best calculated to promote higher education in Papua New Guinea and in particular the interest and purpose of the University.

8. CASUAL VACANCY.

(1) Subject to Subsection (2), in the event of a casual vacancy in the Council, a member shall be appointed in accordance with Section 6(1)(a), (c) or (d) and the person so appointed holds office, subject to this Act, for the residue of the predecessor's term of office.

(2) If a vacancy occurs within three months before the expiration of the term of office of a member, the vacancy shall not be filled for the remainder of the term.

9. VACANCY.

Where a member of the Council of the University –

- (a) dies; or
- (b) declines to act; or
- (c) resigns his seat; or
- (d) is absent without leave of the Council of the University from three consecutive meetings of the Council of the University; or
- (e) is removed by a two-thirds majority vote of the Council,

he ceases to be a member and the vacancy shall be filled as a casual vacancy in accordance with Section 8.

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10. PERSONS ELIGIBLE TO BE MEMBERS OF THE COUNCIL OF THE UNIVERSITY.

A person who -

- (a) is not of the full age of 21 years; or
- (b) is an undischarged bankrupt, or has his affairs under liquidation by arrangement with his creditors; or
- (c) has been convicted of an offence and sentenced to imprisonment unless he has received a free pardon or has undergone the sentence; or
- (d) is an insane person or a person of unsound mind within the meaning of laws relating to insanity or unsoundness of mind in force for the time being in the Independent State of Papua New Guinea,

is not qualified to be appointed or to remain as a member of the Council.

11. CHAIRMAN TO PRESIDE, ETC.

(1) The Chairman of the Council shall preside at all meetings of the Council at which he is present.

(2) At any meeting of the Council at which the Chairman is not present a member elected by the members present from amongst their number shall preside.

12. MEMBER WITH PECUNIARY INTEREST NOT TO VOTE.

(1) A member of the Council shall not be entitled to deliberate and vote either in the Council or in any committee of the Council on a subject in which he has a direct pecuniary interest.

(2) A member referred to in Subsection (1), shall notify the Chairman of such pecuniary interest prior to the deliberation of the subject in which he has a pecuniary interest and such a notification shall be recorded in the Minutes of proceedings.

13. PROCEDURE AT MEETINGS.

(1) Subject to any other provision of this Act, all questions to be decided at a meeting of the Council shall be decided by a majority of the members present.

(2) The Chairman at a meeting shall have a deliberative vote and, in the case of an equality of votes upon any question, a casting vote.

(3) At any meeting of the Council, not less than one-half of the total number of members for the time being shall form a quorum.

(4) Subject to this Act, the procedures of the Council are as determined by it.

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14. DELEGATION.

(1) The Council may, in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution, delegate all or any of its powers and functions under this Act (except this power of delegation and its powers in relation to the making of By-laws) to any member of the Council with or without any other person, or any member of the staff of the University.

(2) A delegation under this section shall -

(a) be revocable by resolution of the Council; and

(b) not prevent the exercise of any power or function by the Council.

PART III. - APPOINTMENT OF PRESIDENT AND STAFF.

15. PRESIDENT OF THE UNIVERSITY.

(1) Subject to this Act, the Council may, from time to time as the occasion requires, appoint a person to be the President of the University.

(2) The President, who shall be a member of the Society of the Divine Word or a person nominated by the Society of the Divine Word, shall be appointed for such period as is specified in the By-laws and on such terms and conditions as the Council determines.

(3) The removal of the President for the time being of the University may only be effected by a two-thirds majority vote of the entire Council.

16. POWERS OF THE PRESIDENT.

The President shall -

(a) be the academic and administrative head of the University and shall exercise general supervision and control over the affairs of the University; and

(b) give effect to the decisions of the authorities of the University and shall ensure that the provisions of this Act are duly observed; and

(c) where in his opinion, there has arisen an emergency which requires that immediate action be taken, take such actions as he deems necessary and report same to the next meeting of the authority which, in the ordinary course, would have dealt with the matter; and;

(d) be a member *ex officio* of authorities, boards or committees of the University and be entitled to be present at and address any meeting of any staff or student bodies recognised by the University; and

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- (e) have the power to request meetings of the Council and shall have powers to convene a meeting of the Academic Board and all other authorities, committees, sub-committees and boards of the University and staff and student bodies recognised by the University; and
- (f) exercise such other powers and perform such other functions as may be prescribed by this Act.

17. STAFF.

(1) Subject to this Act and the By-laws, the Council may from time to time appoint such teaching staff and other staff and servants of the University on such terms and conditions as the Council deems necessary.

(2) The powers, duties and functions of the staff under this section shall be prescribed by this Act and the By-laws.

PART IV. – BY –LAWS.

18. BY-LAWS.

- (1) The Council may, from time to time make by- laws with respect to all or any of the following matters:-
- (a) the management, good government and discipline of the University;
 - (b) the use and custody of the common seal;
 - (c) the manner and time of convening, holding and adjourning a meeting of the Council of the University, the voting at such meetings (including postal and proxy voting), the appointment, powers and duties of the Chairman, the conduct and record of business, the appointment of Committees of the Council of the University, and the quorum, powers and duties of such Committees;
 - (d) the resignation of members of the Council of the University;
 - (e) the tenure of office, stipend and powers and duties of the President;
 - (f) the tenure of the holder of any office or place established by or under this Act in respect of which this Act does not specify a term of office or provide for the fixing of the term of office otherwise than by the By-laws;
 - (g) the number, stipend, manner of appointment and dismissal of the teaching and other staff and servants of the University;

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- (h) the subjects to be taught and courses of study to be undertaken at the University;
- (i) the admission or expulsion and attendance of students;
- (j) the times, places and manner of holding lectures, classes and examinations and the number and character of such lectures, classes and examinations;
- (k) the promotion and extension of higher education;
- (l) the granting of degrees, diplomas, certificates and honours;
- (m) the granting of scholarships, exhibitions, bursaries and prizes;
- (n) the admission of students of other colleges or institutions to any corresponding diploma or certificate without examination;
- (o) the fees to be paid to the University and the exemption of a person or of a class or classes of persons from payment of those fees;
- (p) the establishment, management and control of libraries, laboratories, museums and other Institutions or establishments in connection with the University;
- (q) the establishment or affiliation of residential colleges within or connected with the University;
- (r) the affiliation or admission to the University of any educational or research establishment whereinsoever situated;
- (s) the control and investment of the property of the University;
- (t) the provision of superannuation benefits for, and for the families of, the salaried teachers and other salaried staff of the University or any class of those teachers or staff;
- (u) the recognition, in lieu of or for the purpose of any examination or course of study, of any course of study completed or examination passed in any technical University, school or college, high school or secondary school or in any correspondence course or tutorial class;
- (v) the licensing of boarding houses intended for the accommodation of students;
- (w) generally, all other matters authorized by this Act or necessary or convenient for giving effect to this Act.

(2) The By-laws may provide for empowering any authorized person (including the Council or the University) or officer of the University to make rules or orders (not inconsistent with this Act or with any By-laws) for regulating or providing for the regulation of any specified matter (being a matter with respect to which By-laws may be made) or for carrying out or giving effect to the By-laws, and such rule or order shall have the same force and effect as a By-law.

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19. BY-LAWS TO BE SEALED AND APPROVED.

(1) A By-law made by the Council shall be sealed with the common seal and shall not have effect until it has been approved by the Head of State, acting on advice and notified in the National Gazette.

(2) A By-law shall not be expressed to take effect from a date before the date of notification in a case where, if it so took effect -

- (a) the rights of a person (other than the University) existing at the date of notification would be affected in a manner prejudicial to that person; or
- (b) liabilities would be imposed on a person (other than the University) in respect of anything done or omitted to be done before the date of notification.

(3) Where, in a By-law, a provision is made in contravention of Subsection (2), that provision shall be void and of no effect.

(4) The production of a copy of a duly gazetted By-law under the common seal of the university shall, in all proceedings, be sufficient evidence of the By-law.

PART V. - FINANCE, PROPERTY, ETC.,

20. COUNCIL OF THE UNIVERSITY TO CONTROL AND MANAGE PROPERTY.

The Council shall have control and management of all real and personal property at any time vested in or acquired by the University, and may dispose of real and personal property in the name of and on behalf of the University.

21. POWER TO BORROW.

(1) Subject to this Act and to Subsection (2), the Council may borrow money at interest by way of mortgage, bank overdraft or otherwise -

- (a) for the purpose of carrying out or performing any of its powers, authorities, duties and functions; and
- (b) for the repayment or partial repayment of any sum previously borrowed, within such limits and upon such conditions as to security or otherwise as the Council shall from time to time determine.

(2) A resolution to borrow money may only be made by a two-thirds majority of the entire Council.

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22. **ACQUIRE BY GIFT, ETC.,**

(1) Subject to Subsection (2), the University may acquire by gift, bequest or devise any property, and agree to and carry out the conditions of any such gift, bequest or devise and the Council may create and administer such trust funds as may be necessary or expedient for carrying out the conditions of any such gift, bequest or device.

(2) A two-thirds majority vote of the entire Council shall be required for the acceptance by the University of any gifts, bequests or devises that impose restrictions upon the use by the University of any such gift, bequest or device.

(3) The Council may establish one or more investment funds for the collective investment of any trust funds by or in custody of the University.

(4) The Council may from time to time without liability for breach of trust bring into or withdraw from any such investment fund the whole or any part of any trust fund held by or in the custody of the University.

23. **ACQUISITION OF MAJOR CAPITAL ASSETS.**

The acquisition by the University of any major capital assets shall only be effected after a two-thirds majority vote of the entire Council of the University.

24. **BOOKS AND ACCOUNTS TO BE KEPT.**

The Council shall establish and keep full and complete books and accounts of all moneys received and paid by the University.

25. **AUDIT.**

The books of account of the University shall be audited annually by an auditor appointed by the Head of Mission for the time being of the Society of the Divine Word in Papua New Guinea.

PART VI. - MISCELLANEOUS.

26. **ADMISSION TO UNIVERSITY.**

A person shall not be denied admission as a student of the University, appointment to an office of the University, graduation or any benefit or privilege of the University on grounds of religious belief, sex, race or origin.

27. **GRANT OF DEGREES, DIPLOMA, CERTIFICATE, ETC.,**

(1) Subject to the *Higher Education Act* (Chapter 397) and the By-laws, the Council may after examination, confer any degree, diploma or certificate in respect of any course of study as determined by the Council.

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(2) All degrees, diplomas and certificates conferred by the University shall be evidenced in writing under the common seal of the University and signed by the Chairman and the President.

28. APPOINTMENT OF COMMITTEES.

(1) The Council may by resolution constitute and appoint such Committees as it thinks fit.

(2) A Committee constituted under this section shall exercise such powers and perform such functions as are conferred upon it by the Council.

29. VALIDATION.

No act or proceedings of, or of the members or any committee of, the Council and no act done by any person acting as Chairman or President, shall be invalidated by reason of -

- (a) a defect in the appointment, or choosing of any member of the Council;
or
- (b) a disqualification of any such member; or
- (c) a vacancy or vacancies in the number of members of the Council.

30. REPEAL.

The following Acts are repealed:-

- (a) *Divine Word Institute Act 1980*; and
- (b) *Divine Word Institute (Amendment) Act 1994*.

PART VII. - TRANSITIONAL PROVISIONS.

31. TRANSFER TO UNIVERSITY.

(1) The Divine Word Institute is transferred to the Divine Word University.

(2) Without prejudicing the generality of Subsection (1), such transfer shall include -

- (a) staff and students; and
- (b) building and grounds; and
- (c) equipment; and
- (d) teaching and research facilities; and
- (e) other assets and liabilities both within and outside the college campus.

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(3) Where any property vested in the Divine Word Institute as transferred by this section is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer and without fee, on application in that behalf by the University, enter or register the University in the Register kept under the Act and on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

32. TRANSFER OF STAFF, ETC.,

All officers of the Divine Word Institute comprising the staff transferred by Section 31(2)(a) elected, appointed or nominated by the Divine Word Institute shall, on and from the date of coming into operation of this Act, hold equivalent offices in the University on the same terms and conditions until -

- (a) the expiry of the period for which they were elected, appointed or nominated; or
- (b) the termination of their employment otherwise according to law; or
- (c) elections, appointments or nominations to such officers are made under this Act,

whichever first happens.

33. SAVINGS OF CONTRACTS.

All contracts, agreements, conveyances, leases, deeds, licences and other instruments and undertakings (so far as relating to any person or thing transferred by Section 31) entered into by, made with or addressed to the Divine Word Institute whether alone or with any other person, before, and in effect immediately before, the coming into operation of this Act, continue on that coming into operation, to the extent that they were previously binding on and enforceable against the Divine Word Institute to be binding and of full force and effect in every respect against or in favour of the University as if entered into, made with or addressed to the University after the coming into operation of this Act.

35. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding, or any cause of action, arbitration or proceeding (so far as relating to any person or thing transferred by Section 31) was pending or existing by, against or in favour of the Divine Word Institute it does not, on that coming into operation, abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the University as if this Act had not been made.

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I hereby certify that the above is a fair print of the *Divine Word University Act 1999* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Divine Word University Act 1999* was made by the National Parliament on 2 December 1999.

Speaker of the National Parliament.