

Uganda

## Higher Education Students Financing Act, 2014

### Act 2 of 2014

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# Uganda

## Higher Education Students Financing Act, 2014 Act 2 of 2014

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**An Act to establish a scheme to finance students to pursue higher education in Uganda; to establish the Higher Education Students Financing Board; to establish a Fund to finance the scheme; to provide for the management and administration of the scheme and the fund; and for related matters.**

BE IT ENACTED by Parliament as follows:

### Part I – Preliminary

#### 1. Interpretation

In this Act, unless the context otherwise requires—

"**Board**" means the Higher Education Students Financing Board;

"**currency point**" has the value assigned to it in Schedule 1;

"**employment**" means a contract of service between the employer and the employee and includes a person on selfemployment;

"**functional fees**" includes registration fees, examination fees, library fees, clearance fees, fees for identity cards, medical fees;

"**Fund**" means the higher education students financing Fund established under [section 29](#);

"**higher education**" means a post secondary education course of study or programme leading to the award of a certificate, diploma or degree;

"**Minister**" means the Minister responsible for education;

"**scheme**" means the higher education students financing scheme established under [section 2](#).

### Part II – The Higher Education Students Financing Scheme

#### 2. Establishment of Higher Education Students Financing Scheme

- (1) There is established a scheme to be known as the Higher Education Students Financing Scheme.
- (2) The scheme shall consist of loans and scholarships provided to eligible students to pursue higher education.
- (3) The scheme shall be managed by the Board.

## Part III – The Higher Education Students Financing Board

### 3. Establishment of Higher Education Students Financing Board

- (1) There is established the Higher Education Students Financing Board.
- (2) The Board is a body corporate with perpetual succession and a common seal and may for the purposes of discharging its functions under this Act—
  - (a) acquire, hold or dispose of movable and immovable property;
  - (b) sue and be sued in its corporate name; and
  - (c) do all acts and things that a body corporate may lawfully do.
- (3) The seal of the Board shall be authenticated in accordance with Schedule 2.

### 4. Composition and tenure of the Board

- (1) The Board shall consist of the following—
  - (a) one person with at least ten years experience in management, who shall be the chairperson;
  - (b) a representative of the National Council for Higher Education nominated by the National Council for Higher Education;
  - (c) a representative of management of institutions of higher education nominated by the vice chancellors forum;
  - (d) a representative of the Ministry responsible for education in charge of higher education;
  - (e) a representative of the Ministry responsible for finance;
  - (f) a representative of employers nominated by a recognized employers umbrella association;
  - (g) a representative of students nominated by a recognized umbrella students association;
  - (h) a representative of workers nominated by a recognized workers organization;
  - (i) a representative of Persons with Disabilities nominated by a recognized national umbrella body of persons with disabilities; and
  - (j) the Executive Director who shall be an *ex-officio* member of the board and shall be secretary to the Board.
- (2) The members of the Board shall be persons of high moral character and proven integrity.
- (3) The chairperson and members of the Board shall be appointed by the Minister.
- (4) At least one third of membership of the board shall compose of women.
- (5) A chairperson or member of the Board shall hold office for four years and shall be eligible for reappointment for only one more term.

### 5. Functions of the Board

- (1) The functions of the Board are—
  - (a) to manage the higher education students financing scheme;
  - (b) to administer the Fund;
  - (c) to provide financial assistance to eligible students under this Act;

- (d) to establish a loan protection fund for loans granted to a student under this Act;
  - (e) to determine the number of eligible students to benefit from the scheme;
  - (f) to explore modalities for resource mobilisation for the scheme;
  - (g) to perform any other function that is incidental or connected to the objects of the Board; and
  - (h) to establish and maintain collaboration and network with other persons, bodies, or organizations within or outside Uganda as the board may consider appropriate, for the furtherance of the purpose of the scheme.
- (2) The Board shall, at least once every three months, after the end of each calendar year or at the request of the Minister, submit to the Minister a report on the performance of its functions.
- (3) The Minister shall lay the annual report of the Board before Parliament.

## **6. Powers of the Minister**

- (1) The Minister may, in writing, give policy guidelines to the Board regarding the performance of its functions.
- (2) The Board shall comply with the policy guidelines given by the Minister under this section.

## **7. Vacating office of member of the Board**

- (1) A member of the Board may resign his or her office by a one month notice in writing addressed to the Minister.
- (2) A member of the Board may be removed from office by the Minister on any of the following grounds —
- (a) absence for three consecutive meetings of the Board without notice to the Chairperson or without reasonable cause;
  - (b) ceasing to hold the position under which he or she was appointed to the board;
  - (c) if convicted of a criminal offence;
  - (d) is declared insolvent;
  - (e) inability to perform his or her function arising out of physical or mental incapacity;
  - (f) misconduct or misbehavior; or
  - (g) incompetence.

## **8. Meetings of the Board**

- (1) The Board shall meet at least once every three months for purposes of discharging its functions.
- (2) The meetings of the Board shall be conducted in accordance with Schedule 3.

## **9. Remuneration of members of the Board**

The members of the Board may be paid allowances approved by the Minister in consultation with the Minister responsible for public service and the Minister responsible for finance.

## **10. Committees of the Board**

- (1) The Board may appoint committees for the better carrying out of its functions.

- (2) A Committee appointed under sub section (1) shall exercise specific powers or perform specific functions as the board may determine.
- (3) A committee appointed under subsection (1) shall consist of a chairperson the chairperson other than the board chairperson and other members of the Board, as the Board may determine.
- (4) A committee may invite any person to attend any of its meetings and may co-opt any competent person to the committee but that person shall not vote on any matter before the committee.
- (5) A member of a committee appointed under this section may be paid allowances as the Board may, with the written approval of the Minister, determine.
- (6) Subject to any direction given by the Board, a committee appointed under this section may regulate its own procedure.

## **Part IV – Secretariat and staff of the Board**

### **11. Secretariat of the Board**

- (1) The Board shall have a secretariat which shall be responsible for the day-to-day operations of the scheme and implementing the decisions of the Board.
- (2) The secretariat shall be headed by a full time Executive Director.

### **12. Executive Director**

- (1) The Executive Director shall be appointed by the Minister on the recommendation of the Board.
- (2) The Executive Director shall be a person of high moral character with proven integrity and shall have at least ten years working experience, with at least five years in higher education management and financial management.
- (3) The Executive Director shall hold office for five years and shall be eligible for reappointment for only one more term.
- (4) A person shall cease to hold the office of Executive Director if that person—
  - (a) resigns his or her office by notice in writing addressed to the Minister;
  - (b) is declared insolvent;
  - (c) is convicted of a criminal offence;
  - (d) is removed from office by the Minister on the recommendation of the Board for—
    - (i) continuously and persistently being unable to discharge the functions of the office of Executive Director due to infirmity of body or mind;
    - (ii) failing to disclose to the Board any interest in a contract or proposed contract or any other matter connected to the Board;
    - (iii) misbehavior or misconduct;
    - (iv) incompetence.

### **13. Duties of the Executive Director**

- (1) Subject to this Act and to the general supervision of the Board, the Executive Director is the chief executive officer of the Board and is responsible for—
  - (a) implementing the policies and programmes agreed upon by the Board;



- (b) managing financial, human and physical resources of the Board;
  - (c) keeping the Board informed of the activities of the scheme;
  - (d) keeping record of all the transactions of the scheme and the Board;
  - (e) performing any other function as determined by the Board;
  - (f) mobilizing resources for the Scheme.
- (2) In the performance of his or her duties the Executive Director is answerable to the Board.

#### **14. Other officers and staff of the Board**

- (1) There shall be officers and staff of the Board as may be necessary for the effective performance of the functions of the Board.
- (2) The officers and staff of the Board shall be appointed by the Board on such terms and conditions as the Board shall determine.
- (3) Without prejudice to the generality of sub section (2), the Board may provide for payment of salaries, allowances, pensions, gratuities or other retirement benefits to its officers and employees, and may require them to contribute to any pension, provident fund or superannuation scheme.

#### **15. Protection of members and officers of the Board**

A member or officer of the Board or a person acting on the directions of the Board is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of his or her duties under the provisions of this Act.

### **Part V – Loans and scholarships**

#### **16. Student loans**

- (1) A loan shall cover the following—
  - (a) tuition fees;
  - (b) functional fees;
  - (c) research expenses;
  - (d) aids and appliances for persons with disabilities.
- (2) A loan may include specific amounts in respect of accommodation or meals, where the board determines that the funds are sufficient, based on the needs of each student, in addition to fees prescribed in subsection (1).
- (3) The Minister shall on the recommendation of the Board by statutory instrument determine the amount for each of the items referred to in subsection (1) and (2) annually.
- (4) The Board shall publish the amount determined by the Minister under subsection (3) in the *National Gazette* and at least two newspapers of wide national coverage.
- (5) Where a student changes from the scheme or course for which the loan was granted, the student shall within fourteen days after the institution approves the change, notify the Board of the change of programme or course.
- (6) The Board shall not be responsible for any additional fees required or incurred as a result of the change in course or programme.

## 17. Interest on loan

- (1) Every student loan shall be repayable with interest.
- (2) The interest shall be determined by the Minister in consultation with the Minister responsible for finance.

## 18. Student scholarships

- (1) A student scholarship shall be awarded to an eligible student to pursue higher education in a field of study determined by the Board as critical to national and economic development.
- (2) In determining the fields of study, the Board shall be guided by key development areas as specified in the National Development Plan.
- (3) A scholarship may cover the following—
  - (a) tuition fees;
  - (b) functional fees;
  - (c) books and reading materials;
  - (d) accommodation fees;
  - (e) meals;
  - (f) research fees;
  - (g) aids, appliances and personnel assistance for persons with disabilities; and
  - (h) other expenses as may be determined by the Board and approved by the Minister.
- (4) The Minister shall on the recommendation of the Board by statutory instrument determine the amount for each of the items referred to in subsection (3).
- (5) The Board shall publish the amount determined by the Minister under subsection (3) in at least two newspapers of wide national coverage.
- (6) A student scholarship shall be non-refundable by the beneficiary, except where a student—
  - (a) abandons the course without reasonable cause;
  - (b) changes to a course not approved by the Board; or
  - (c) fails to comply with any other terms and conditions of the scholarship as may be determined by the Board.
- (7) A student scholarship shall only be used for the course for which the scholarship has been awarded and shall not be transferable.
- (8) A student scholarship may be terminated by the Board at any time where the student performs or omits to perform an act or omission which violates the terms and conditions of the scholarship as determined by the Board.
- (9) The board may bond the beneficiary to the scheme for a specified period, as the Minister may, by statutory instrument determine.
- (10) External scholarships shall only be awarded to students who qualify for academic programmes that are not offered in institutions of higher learning within Uganda.

## 19. Bilateral scholarships

Bilateral scholarships may be awarded subject to conditions agreed upon by the donor country and the Government of Uganda.

## 20. Eligibility into the scheme

- (1) The scheme is only for Ugandan students seeking financial assistance to pursue an accredited course of study or programme of higher education in an accredited institution of higher learning recognized by the National Council for Higher Education.
- (2) In determining the eligibility into the scheme, the Board shall take into consideration the following—
  - (a) regional balance;
  - (b) gender;
  - (c) socio economic needs; and
  - (d) equity.
- (3) The Board may, by notice in the *Gazette* and a newspaper of wide national coverage, declare the programmes or courses of study to be funded in a particular academic year.
- (4) In determining the programmes or courses of study referred to in subsection (2), the Board shall take into account government policy regarding higher education.

## 21. Application for loan or scholarship

- (1) an eligible student may, in a manner prescribed by the board apply to the board for a loan or scholarship.
- (2) Upon receipt of the application, the Board shall investigate and verify the information contained in the application.
- (3) The Board shall within twenty one working days determine the application and—
  - (a) notify the applicant of the decision of the Board;
  - (b) publish the list of all approved applicants on the website of the Board, in the gazette and at least two newspapers of wide national coverage.
- (4) Where the Board rejects an application, the Board shall give reasons to the applicant in writing where necessary.
- (5) A person aggrieved by a decision of the Board may appeal to the Minister within seven days after receipt of the notification in subsection (4).
- (6) The Minister shall determine the appeal within fourteen days after receiving the appeal.

## 22. Undertaking by approved applicants

- (1) The Board shall within seven days after the notification and publication referred to in [section 21](#) invite the approved applicants to enter into an undertaking with the Board.
- (2) The undertaking shall be as specified in Schedule 4 and shall specify the amount of the loan approved or scholarship awarded to the applicant.

## Part VI – Repayment of student loans

### 23. Repayment of student loan

- (1) A person who has received a student loan shall start repaying the loan with the specified interest at least one year after completing the higher education for which the loan was given.
- (2) For the avoidance of doubt, subsection (1) shall apply whether the person is employed or not.
- (3) Without prejudice to subsection (1) a person who has received a student loan may start repaying the loan before the time specified in subsection (1).
- (4) The Board shall within thirty days after the time specified in subsection (1), in writing inform the person who received a student loan to start repayment as required by this Act.
- (5) Where a person has no income for the repayment of the student loan, the person shall within fourteen days after receiving the notice under subsection (4) in the prescribed manner, inform the Board accordingly.
- (6) The Board may after verifying the information contained in the notice under subsection (4), extend the time under subsection (1) in respect of that person.

### 24. Student loan repayment schedule

- (1) The Board shall determine the schedule and installments for the repayment of the student loan and shall notify the person and the employer of the rate of deduction in respect of that person.
- (2) The repayment of a student loan shall be charged on the salary or wages or income of the person who received the student loan.

### 25. Student loan beneficiary to inform the Board

- (1) A person who has benefited from a student loan shall within fourteen days inform the Board of any employment in which the person is engaged.
- (2) A person who contravenes the provision of this section commits an offence and is liable on conviction to a fine not exceeding fifty currency points or imprisonment of six months or both.

### 26. Deductions by employer

- (1) Every employer who employs a person, whose loan is due for repayment, shall, every month deduct the amount specified by the Board from the salary or income of that person for purposes of repaying the student loan.
- (2) A deduction under subsection (1) shall not exceed thirty percent of the net salary or income of the employee.
- (3) A person who employs a person who has received a student loan shall within fourteen days, in the prescribed form, notify the Board specifying the position and salary of the person.
- (4) For purposes of this section, the Board may direct an employer to deduct a specified amount from the salary of an employee where the employer or employee has not informed the Board of the employment.
- (5) An employer who knowingly does not—
  - (a) deduct or remit the loan repayments in accordance with this section;

- (b) notify the Board of the employment of a person who has received a student loan, commits an offence and is liable on conviction to a fine not exceeding two hundred and forty currency points or imprisonment not exceeding ten years or both.

### **27. Early repayment**

A person who wishes to make early repayment shall repay the student loan in a manner determined by the Board.

### **28. Priority of student loan over other deductions**

- (1) Subject to subsection (2) a student loan shall take priority over all deductions.
- (2) Taxes and other statutory deductions shall be deducted before deducting any income of the beneficiary, for the repayment of a student loan.

## **Part VII – Financial provisions**

### **29. Higher education students financing Fund**

- (1) There is established a higher education students financing Fund.
- (2) The Fund shall consist of—
  - (a) money appropriated by Parliament for the purposes of the scheme;
  - (b) grants, donations, endowments or loans received by the Board;
  - (c) repayments and interest on loans granted;
  - (d) loan protection fees charged in accordance with [section 30](#);
  - (e) fees charged for the services rendered by the Board;
  - (f) proceeds from any investment undertaken by the board.
- (3) The Fund shall be administered by the Board.
- (4) The Fund shall be used to finance the higher education students financing scheme.

### **30. Loan protection fees**

- (1) The Board may levy a loan protection fee on the gross approved loan amount in respect of each student loan.
- (2) The amount of the loan protection fees shall be determined by the Minister in consultation with the Minister responsible for finance.
- (3) The amount of the loan protection fees shall not exceed the percentage specified in Schedule 5.
- (4) The borrower of the funds shall subscribe to a loan protection fee which shall indemnify the borrower against payment of outstanding debt to the fund as a result of death or permanent disability.

### **31. Power to open and operate bank accounts**

- (1) The Board shall open and maintain bank accounts as are necessary for the performance of the functions of the Board.
- (2) The bank accounts shall be operated in a manner determined by the Board.

**32. Estimates of income and expenditure**

- (1) The Board shall, in not less than two months, before the beginning of each financial year, prepare and submit to the Minister for approval, a budget containing the estimates of income and expenditure of the Board for the next financial year.
- (2) The Board shall not incur any expenditure exceeding the budget without the written approval of the Minister.

**33. Application of Board funds**

- (1) The funds of the Board may be applied to the payment or discharge of expenses, obligations, including international obligations, or liabilities incurred in connection with the performance of the functions or exercise of the powers of the Board.
- (2) Notwithstanding subsection(1) the funds of the board may be applied to the payment of any remuneration or allowances payable under this Act.

**34. Investment of surplus funds**

- (1) The Board shall declare to the Minister any surplus funds that the Board may have at the end of the financial year.
- (2) Any funds of the Board not immediately required for any purpose under this Act, may be invested—
  - (a) on a fixed deposit account with a bank approved by the Board;
  - (b) in treasury bills and securities of the Government;
  - (c) in any other manner determined by the Board with the approval of the Minister.

**35. Financial year of the Board**

The financial year of the Board is the period of twelve months beginning on the 1<sup>st</sup> day of July in each year, and ending on the 30<sup>th</sup> day of June in the next calendar year.

**36. Accounts**

- (1) The Board shall keep proper books of accounts and all records relating to the transactions and affairs of the Board
- (2) The Board shall within three months after the end of the financial year, prepare annual financial statements for the preceding financial year.
- (3) The Board shall within three months after the end of each financial year, submit the annual accounts to the Auditor General.

**37. Audit**

The Auditor General or an auditor appointed by the Auditor General shall within three months after receipt of the accounts submit to the Minister and Parliament a report on the audited accounts of the Board.

## Part VIII – Miscellaneous

### 38. False statements by applicants

An applicant who makes a false statement to the Board or in any document submitted to the Board commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding twenty four months or to both.

### 39. General penalty

A person, who contravenes any of the provisions of this Act, where no specific punishment is prescribed, commits an offence and is liable on conviction to a fine not exceeding fifty currency points or imprisonment of six months, or both.

### 40. Appeals

- (1) A person aggrieved by the decision of the Board may appeal to the Minister; and
- (2) A person aggrieved by the decision of the Minister may appeal to the High Court within one month.

### 41. Regulations

- (1) The Minister may on the recommendation of the Board, by statutory instrument, make regulations for better carrying into effect the provisions of this Act.
- (2) Without prejudice to subsection (1), the Minister may make regulations prescribing the—
  - (a) procedure and form for applying for a loan or scholarship;
  - (b) fees payable for applications or services under this Act;
  - (c) procedure for the disbursement of a loan or scholarship;
  - (d) procedures and mechanisms for early repayment of loans;
  - (e) matters to be taken in to account by the Board when determining applications;
  - (f) form of documents or notices required or provided for this Act;
  - (g) manner of repaying loans by students who do not complete a course of study or programme funded by the Board; and
  - (h) conditions regarding change of programme or course of study.

## Part IX – Transitional provisions

### 42. Management of existing scholarships

- (1) All scholarships currently offered by the Government of Uganda, including bilateral scholarships, existing immediately before the commencement of this Act shall vest in the Board.
- (2) The central scholarship committee of the Ministry of education and Sports existing immediately before the commencement of this Act shall cease to exist on such a date as the Minister may by statutory instrument publish in the gazette.

**43. Transfer of assets and liabilities**

All movable and immovable property, assets and liabilities of the scheme which immediately before the commencement of this Act vested in the student loan task force of the Ministry responsible for Education and Sports shall vest in the Board.

**44. Amendment of Schedules**

The Minister may by statutory instrument amend a Schedule to this Act.

**Schedule 1 (Section 1)****Currency point**

One currency point is equivalent to twenty thousand shillings.

**Schedule 2 (Section 3(3))****Seal of the Board**

1. The common seal of the Board shall be determined by the Board and shall be kept in the custody of the Executive Director.
2. The common seal shall, when affixed to any document, be authenticated by the signatures of the Chairperson and the Executive Director.
3. In the absence of the Chairperson or when the Chairperson is unable to perform this function, two other members of the Board appointed for that purpose shall sign in the place of the Chairperson.
4. A person performing the functions of the Executive Director shall sign in the absence of the Executive Director.
5. A contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed without seal on behalf of the Board by the Executive Director or any other person authorized in that behalf by the Board.
6. Every document including that purporting to be—
  - (a) an instrument issued by the Board and sealed with the common seal of the Board and authenticated in the manner prescribed in paragraphs 2 to 4; or
  - (b) a contract or instrument entered into or executed under paragraph 5, shall be received in evidence as such an instrument without further proof unless the contrary is proved.

**Schedule 3 (Section 8(2))****Meetings of the Board**

1. **Meetings of the Board**
  - (1) Meetings of the Board shall be convened by the Chairperson, and the Board shall meet for the transaction of business at such places and times as may be decided upon by the Board but in any case shall meet at least once every three months.
  - (2) The Chairperson or, in the absence of the Chairperson, a member appointed by the Board to act in the Chairperson's place may at any time call a special meeting of the Board and shall call a special meeting upon a written request by a majority of the members of the Board.
  - (3) The Chairperson shall preside at every meeting of the Board.



- (4) In the absence of the Chairperson, the members present may appoint a member from among themselves to preside at that meeting.
2. **Quorum**

The quorum at a meeting of the Board is five members.
3. **Decisions of the Board**
  - (1) All questions proposed at a meeting of the Board shall be decided by a simple majority of the votes of the members present and voting; and in, case of an equality of votes, the person presiding shall have a casting vote in addition to that person's deliberative vote.
  - (2) A decision may be made by the Board without meetings but by circulation of the relevant papers among the members and by the expression of the views of the majority of the members in writing; however, any member shall be entitled to require that the decision be deferred and the matter on which a decision is sought be considered at a meeting of the Board.
4. **Board may co-opt members**

The Board may invite any person to attend any of its meetings as a consultant and may co-opt any person to the Board but that person shall not vote on any matter before the Board.
5. **Declaration of interest**
  - (1) Any member of the Board having pecuniary or other interest, directly or indirectly in any contract or proposed contract or other matter before the Board shall, at that meeting, declare the nature of such interest and shall not take part in any discussion or vote on that matter, and if the Chairperson directs, the person shall withdraw from that meeting.
  - (2) The failure of any member of the Board to disclose an interest in any contract or proposed contract or any other matter before the Board will cause the decision of the Board to be voidable at the instance of the other members of the Board, and that member shall be liable to be relieved of his or her duties.
  - (3) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part under subparagraph (1) shall be treated as being present.
6. **Board may regulate its procedure**

Subject to this Act, the Board may regulate its own procedure and may make rules regarding the holding of meetings, notice to be given, the keeping of minutes or any other matter relating to its meetings.

## **Schedule 4 (Section 22(2))**

### **Undertaking by applicant**

#### ***Undertaking by the applicant (Under section 21 of the Higher Education Financing Act, 2013)***

I \_\_\_\_\_ (*insert name of applicant*) acknowledge that the student loan of \_\_\_\_\_ (*specify amount of loan*) approved by the Board shall be used to pursue \_\_\_\_\_ (*specify course or programme of study*) at \_\_\_\_\_ (*specify institution*)

I **UNDERTAKE** to repay the loan with the interest specified by the Board in accordance with Higher Education Students Financing Act.

I further undertake to abide by all obligations imposed upon me by the Board in accordance with the Act.

I understand that in default of repayment, the entire loan amount shall become due and repayable in accordance with the Act.

I consent to the Board sharing any information relating to me which I have submitted to the Board or obtained by the Board with any agency or body for the purpose ensuring repayment of the loan.

Name: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

### **Schedule 5 (Section 30(3))**

#### **Loan protection fees**

The amount of the loan protection fees shall not exceed one percent of the loan amount.