

No. 1693

14 November 2003

**HIGHER EDUCATION ACT, 1997 (ACT No. 101 OF 1997)  
INCORPORATION OF A SUBDIVISION OF A PUBLIC HIGHER  
EDUCATION INSTITUTION WITH ANOTHER PUBLIC HIGHER  
EDUCATION INSTITUTION**

**INCORPORATION OF THE PORT ELIZABETH CAMPUS OF VISTA  
UNIVERSITY WITH THE UNIVERSITY OF PORT ELIZABETH**

I, Professor Kader Asmal, MP, Minister of Education, in accordance with section 24(1) of the Higher Education Act, 1997 (Act No. 101 of 1997), as amended, and after consulting the Council on Higher Education, hereby incorporate the Port Elizabeth Campus of Vista University with the University of Port Elizabeth. The date of the incorporation and the transitional arrangements required to ensure the effective implementation of the incorporation process are set out in the Schedule hereto.



**Professor Kader Asmal, MP  
Minister of Education**

*11 November 2003*

**SCHEDULE**

**The date of the incorporation**  
2 January 2004

**The transitional arrangements**

1. The Higher Education Act, as amended, prescribes that notwithstanding sections 197 and 197A of the Labour Relations Act, 1995 (Act No. 66 of 1995), the contracts of employment between the public higher education institution (the old employer) and its employees are transferred automatically to the incorporating public higher education institution as from the date of the incorporation. In this regard –
  - the contracts of employment between the Vista University and its employees are transferred automatically to the University of Port Elizabeth as from 2 January 2004. Any subsequent redeployment of an employee as a consequence of the merger is subject to applicable labour legislation;
  - all the rights and obligations between Vista University and its employees at the time of the incorporation continue in force as if they were rights and obligations between the University of Port Elizabeth and each employee and anything done before the incorporation by or in

- relation to the old employer is considered to have been done by or in relation to the new employer;
- the incorporation does not interrupt the employee's continuity of employment.
2. The Higher Education Act, as amended, prescribes that the incorporation does not affect the liability of any person to be disciplined for, prosecuted for, convicted of and sentenced for any offence or misconduct.
  3. In terms of the Higher Education Act, as amended, an employee or a student is subject to the disciplinary codes and rules applicable to the University of Port Elizabeth as from 2 January 2004, but if any enquiry into incapacity or any proceedings in respect of a charge of misconduct had been instituted or commenced against any employee or student before the date of the incorporation, such enquiry or proceedings continue in terms of the codes and rules applicable at the Port Elizabeth Campus of Vista University.
  4. The Higher Education Act, as amended, requires that the incorporating institution continues with all academic programmes offered by the old higher education institution under the rules applicable to such higher education institution immediately before the date of the incorporation, until such programmes and rules are amended or restructured by the incorporating institution's council. In this regard, the University of Port Elizabeth continues with all academic programmes offered by the Port Elizabeth Campus of Vista University under the rules applicable to the Port Elizabeth Campus of Vista University immediately before the date of the incorporation, until such programmes and rules are amended or restructured by the council of the University of Port Elizabeth.
  5. The Higher Education Act, as amended requires that an incorporating institution awards a degree, diploma or certificate to a student who qualifies before or after the date of the incorporation in its own name, but such degree, diploma or certificate must also reflect the name of the education institution at which the student was registered immediately before the date of the incorporation if the student was so registered. In this regard, the University of Port Elizabeth awards a degree, diploma or certificate to a student who qualifies before or after the date of the incorporation in its own name, but such degree, diploma or certificate must also reflect the name of Vista University where the student was registered immediately before the date of the incorporation if the student was so registered.