VERŻJONI ELETTRONIKA

B 2514

L.N. 295 of 2012

EDUCATION ACT
(CAP. 327)

Validation of Non-formal and Informal Learning Regulations, 2012

IN exercise of the powers conferred by article 135(u) of the Education Act, the Minister of Education and Employment has made the following regulations:-

Citation.

1. The title of these regulations is the Validation of Non-Formal and Informal Learning Regulations, 2012.

Interpretation.

2. For the purposes of these regulations, unless the context otherwise requires -

"accreditation" has the same meaning assigned to it by article 63 of the Act;

Cap. 327.

"the Act" means the Education Act;

"body corporate" has the same meaning assigned to it by article 2 of the Act;

"the Commission" means the National Commission for Further and Higher Education established by article 64 of the Act;

"informal learning" has the same meaning assigned to it by article 63 of the Act;

"lifelong learning" has the same meaning assigned to it by article 63 of the Act;

"Malta Qualifications Framework" has the same meaning assigned to it by article 63 of the Act;

"the Minister" means the Minister responsible for education;

"non-formal learning" has the same meaning assigned to it by article 63 of the Act;

"occupational standards" means standards which describe what an individual in a particular occupation should know and be able to do to be formally recognised as competent in a given occupation;

"qualification" has the same meaning assigned to it by article 63 of the Act;

"school" has the same meaning as is assigned to it by article 2 of the Act;

"Sector Skills Unit" is an industry-focused unit established by the Commission that develops occupational standards and designs qualifications with the purpose of improving the skills of the workforce;

"validation of non-formal and informal learning" means a process which identifies, assesses and formally certifies the knowledge, skills and competences which individuals develop throughout their lives by means of participation in non-formal and informal learning.

Scope.

3. The object of these regulations is to provide a regulatory framework for the validation of non-formal and informal learning and for the granting of validation awards classified within the Malta Qualifications Framework in accordance with the types of awards established within the Malta Qualifications Framework.

National Commission for Further and Higher Education.

4. (1) In accordance with article 65(i) of the Act, the Commission shall be the competent authority responsible for the validation of non-formal and informal learning and for classifying such validation at a level of the Malta Qualifications Framework.

(2) For the purpose of sub-regulation (1), the Commission shall establish such structures and shall have such functions and powers as provided in these regulations.

(3) Without prejudice to the powers of the Minister under the Act, the Commission shall have such power and authority as may be required for the proper performance by it of any and all of its functions under these regulations.

Sector Skills Committee.

5. (1) In accordance with article 69(10) of the Act, the Commission shall establish a Sector Skills Committee, the members of which shall be appointed by the Commission with the approval of the Minister for a period not exceeding three years and each member shall be eligible for re-appointment.

(2) The Sector Skills Committee shall be composed as follows:

(a) a Chairman;

(b) a member representing industry in general;

(c) a member representing education and training in general;

(d) a member representing employers;

(e) a member representing employees, nominated by the Malta Council for Economic and Social Development established by article 3 of the Malta Council for Economic and Social Development Act.

Cap. 431.

(3) The Sector Skills Committee shall formulate and develop the following:

(a) policies and procedures to govern the Sector Skills Units;

(b) criteria and standards for the validation of non-formal and informal learning;

(c) guidelines for the assessment of skills and competences for the purpose of the granting of awards by Sector Skills Units;

(d) guidelines for quality assurance in non-formal learning;

(e) occupational standards relevant to each economic sector; and

(f) sectoral qualifications frameworks referenced to the Malta Qualifications Framework, on a proposal of the Sector Skills Units:

Provided that the instruments developed by the Sector Skills Committee under this sub-regulation shall require adoption by the Commission in order to be enforceable under these regulations.

(4) In the formulation, development and adoption of occupational standards as provided in sub-regulation (3), the Sector Skills Committee and the Commission shall have due regard to the use of occupational standards in enhancing curriculum development, specifying competences which workers need to possess, assisting in certifying workers, assisting employers to carry out skills audits, directing professional development within the workforce, facilitating the recruitment process, setting quality standards within sectors and occupations, facilitating the validation of non-formal and informal

VERŻJONI ELETTRONIKA

learning, enabling Government to determine skills' capacity at a national level and promoting the mobility of workers across national borders.

(5) Without prejudice to its specific competences under these regulations, the Sector Skills Committee shall have the following functions and responsibilities:

(a) to generally advise the Commission on all matters related to the validation of non-formal and informal learning;

(b) on the advice of the Sector Skills Units, to establish, maintain and regulate the use of marks of distinction and of quality assurance in non-formal education, with the approval of the Commission;

(c) to promote the benefits of validation of non-formal and informal learning in Malta; and

(d) to set up a register of persons awarded full or partial awards classified within the Malta Qualifications Framework.

(6) The Sector Skills Committee shall meet as often as necessary and the quorum shall be three members, including the Chairman.

(7) In the absence of consensus, decisions of the Sector Skills Committee shall be taken by a majority of votes of the members present and voting; in the case of an equality of votes, the Chairman shall exercise a casting vote.

(8) Any vacancy among members of the Sector Skills Committee shall not invalidate the proceedings of the Committee.

(9) The Sector Skills Committee shall compile and send to the Commission, not later than four weeks after the end of each financial year, an annual report on its activities during that year, including the policies, functions and future plans of the Sector Skills Committee. Such report shall be integrated with the annual report to be compiled and sent by the Commission to the Minister in accordance with article 66 of the Act.

Sector Skills Units.

6. (1) The Commission shall from time to time, on the advice of the Sector Skills Committee and in accordance with these regulations, establish Sector Skills Units, the members of which shall be appointed by the Commission with the approval of the Minister.

(2) The Sector Skills Units shall be composed as follows:

(a) a Chairman;

(b) two members representing the respective economic sector;

(c) two members representing education and training;

(d) one member representing a government authority or board associated with the sector; and

(e) one member appointed by workers' representatives within the sector.

(3) Sector Skills Units shall be under the direct responsibility of the Sector Skills Committee and shall apply the instruments established by the Commission under these regulations.

(4) Sector Skills Units shall have the following objectives:

(a) to ensure the consistency and relevance of occupational standards;

(b) to reduce skills gaps and skills shortage and to improve the skills and productivity of their sector's workforce; and

(c) to improve learning supply and to ensure the recognition and certification of skills and competences.

(5) Sector Skills Units shall have the following functions and responsibilities:

(a) to develop and propose to the Sector Skills Committee occupational standards relevant to their respective sector;

(b) to develop and propose to the Sector Skills Committee guidelines and mechanisms for the validation of non-formal and informal learning for all skills within their respective sector;

(c) to develop and maintain a sectoral qualifications framework referenced to the Malta Qualifications Framework;

(d) to provide guidance and counselling services to persons submitting their documented experiences for validation;

VERŻJONI ELETTRONIKA

(e) to undertake assessments and tests for validating non-formal and informal learning;

(f) to audit from time to time all assessment processes and results achieved thereby;

(g) to develop and propose to the Sector Skills Committee marks of distinction and of quality assurance in the provision of non-formal learning in their respective sector and to oversee the use and implementation of such marks in accordance with the requirements of the Commission;

(h) to advise on, and promote, the benefits of validation of non-formal and informal learning in their respective sector;

(i) to advise the Sector Skills Committee on the state, operation, needs and prospects of the sector from an education and training perspective; and

(j) to compile and send to the Sector Skills Committee not later than six weeks after the end of each financial year, an annual report on its activities during that year, including the policies, functions and future plans of the respective Sector Skills Unit.

(6) Members of the Sector Skills Units shall be appointed for a period not exceeding three years and shall be eligible for re-appointment.

(7) Each Sectors Skills Unit shall meet as often as necessary and the quorum shall be four members, including the Chairman.

(8) In the absence of consensus, decisions of the Sector Skills Units shall be taken by a majority of votes of the members present and voting; in the case of an equality of votes, the Chairman shall exercise a casting vote.

(9) Any vacancy among members of the Sector Skills Units shall not invalidate the proceedings of the Units.

(10) The Commission shall appoint one or more coordinators who shall be responsible for the day-to-day management of the Sector Skills Units and to provide appropriate support for their meetings and to implement any decisions taken.

Validation practitioners.

7. (1) The Sector Skills Committee, shall, with the approval of the Commission, appoint one or more validation process

managers and external evaluators as validation practitioners, with the aim of ensuring ongoing quality and trust in the validation process.

(2) Validation process managers shall be tasked with managing and coordinating the validation process of awards provided by bodies corporate and the validation of individuals across the Sector Skills Units.

(3) External evaluators shall be tasked with providing quality assurance of the validation process and with training counsellors and assessors. External evaluators shall operate as independent external evaluators.

(4) There shall also be additional validation practitioners appointed by the Sector Skills Units in accordance with regulation 9.

Bodies corporate providing non-formal learning.

8. (1) The Sector Skills Committee shall maintain and publish an updated register of bodies corporate providing non-formal learning activities and of non-formal learning awards, as approved by the Commission.

(2) Any body corporate providing non-formal learning may apply to the Sector Skills Committee to be listed in the register referred to in sub-regulation (1). The listing of any body corporate on such register shall be valid for a period not exceeding three years, subject to renewal.

(3) Bodies corporate listed in the register referred to in sub-regulation (1) shall apply to the Sector Skills Committee for their awards to be validated by the Commission, on the advice of the Sector Skills Committee, and for an award to be classified by the Commission at a level of the Malta Qualifications Framework.

(4) The listing, or the renewal thereof, of a body corporate and its awards in the register referred to in sub-regulation (1) shall be subject to such requirements, conditions, limitations and exclusions as the Sector Skills Committee, with the approval of the Commission, may consider necessary, appropriate and proportionate in accordance with these regulations.

(5) The Commission shall, on the advice of the Sector Skills Committee, establish the criteria for the listing of a body corporate and its awards on the register referred to in sub-regulation (1) which criteria shall include provisions relating to the quality of the non-formal learning activities provided.

(6) The Commission may, on the advice of the Sector Skills Committee, suspend or revoke the listing of a body corporate from the register referred to in sub-regulation (1) where it is apparent to the Commission that the non-formal learning activities provided by it, or the quality of the provision of such activities, substantially differ from that evidenced by it at the time of the listing.

(7) The register referred to in sub-regulation (1) shall stipulate the name of the body corporate, the type of non-formal learning activities provided by the body corporate and the awards conferred by the body corporate.

(8) All bodies corporate listed in the register shall comply with the provisions of these regulations and the requirements, conditions, limitations and exclusions published by the Commission, on the advice of the Sector Skills Committee, from time to time.

(9) Any body corporate listed in the register that fails to comply with these regulations shall be liable to an administrative fine not exceeding one thousand and one hundred euro (€1,100). The Commission shall be responsible for the imposition of fines and for their enforcement upon any person contravening these regulations, taking into account the gravity of the non-compliance and any payments made to that a body corporate:

Provided that prior to imposing such fine, the Commission shall allow for a due period of time for the body corporate to comply with sub-regulation (8), during which time the Commission may suspend the listing of the body corporate concerned in accordance with sub-regulation (6).

Individual validation process.

9. (1) Persons who have undertaken non-formal or informal learning for at least three years in a specific economic sector may apply to the Sector Skills Committee to have their prior non-formal or informal learning experience validated in accordance with the process provided in this regulation.

(2) The validation process undertaken for the purpose of the validation of an individual's prior non-formal or informal learning experience shall be voluntary, provide equal access and equal and fair treatment to all individuals, respect the rights of individuals, be transparent and be underpinned by the principle of quality assurance.

(3) Any individual applying for validation of prior non-formal or informal learning, hereinafter referred to as "a candidate", can apply for a maximum of two validations each year.

(4) Upon application, the Sector Skills Committee shall provide candidates with all necessary information and guide them towards the specific Sector Skills Unit relevant to their application.

(5) The Sector Skills Committee shall establish, with the approval of the Commission, the format of a portfolio to be given by candidates to the Sector Skills Unit, which portfolio shall document and provide evidence of all the experiences of the candidate relevant to the validation being sought.

(6) The Sector Skills Units shall provide assistance to the candidates in the compilation of the portfolio referred to in sub-regulation (5), by means of guidance practitioners appointed by the Sector Skills Units with the approval of the Sector Skills Committee. The portfolio may include personal details, work experiences, résumés, references from employers, documents related to formal qualifications, photographs and audio and video clips relevant to the validation being sought.

(7) Guidance practitioners referred to in sub-regulation (6) shall be trained individuals tasked with preparing candidates for the validation process by informing them about the relevant procedures, advising them how to organise and document evidence of learning, assisting candidates to prepare for their assessment and guiding them after the assessment decision. Guidance practitioners shall be validation practitioners who have knowledge of the validation process and the assessment procedures used, and of the education system and an understanding of the labour market.

(8) The Sector Skills Committee shall establish, with the approval of the Commission, the procedures, methods and tools to be applied by the Sector Skills Units for the assessment of candidates in the validation process.

(9) Assessment procedures, methods and tools established in accordance with sub-regulation (8) shall make provision for candidates' technical or professional competences, personal competences and social competences.

(10) Assessment procedures established in accordance with sub-regulation (8) shall take into consideration criteria stipulated in published occupational standards and shall be undertaken by qualified assessors.

(11) Assessment methods and tools established in accordance with sub-regulation (8) shall be based on the criteria of validity of the tool, reliability of results, fairness and fitness for purpose.

(12) One or more of the following assessment methods may be applied by the Sector Skills Units for the purpose of the assessment referred to in sub-regulation (8):

(a) debate or interview, where candidates demonstrate the depth of their knowledge and communication and social skills;

(b) declarative methods, where candidates demonstrate critical reflection, while making evidence-based statements about the competences they possess;

(c) observation, where candidates' behaviour is observed, which can take place either through a simulated or a real-life work scenario; or

(d) tests and examinations, where candidates demonstrate, orally or in writing, their competences on a specific subject.

(13) The assessment of candidates shall be undertaken by assessors who shall be validation practitioners appointed by the Sector Skills Units with the approval of the Sector Skills Committee. Assessors shall be individuals trained in assessment and validation who are tasked with judging candidates in order to determine whether specific assessment criteria are met. Assessors shall have knowledge of the specific sector concerned, of the validation process and of the assessment methods used. Assessors shall not have any personal interest in the validation outcomes.

(14) Assessors shall recommend to the Sector Skills Units whether candidates merit to be conferred with a full or partial award.

Subcontracting of assessment procedures.

10. (1) Sector Skills Units may from time to time subcontract other public or private entities to carry out the assessment required for the validation of non-formal and informal learning of candidates.

(2) The Sector Skills Units which subcontract the carrying out of assessments in accordance with sub-regulation (1) shall ensure that the entity to which such subcontracting is made uses the procedures, methods and tools established by the Sector Skills Committee in accordance with these regulations and complies with such requirements, conditions, limitations and exclusions as required by the Sector Skills Committee, with the approval of the Commission.

VERŻJONI ELETTRONIKA

Individual validation awards.

11. (1) The validation referred to in regulation 9 shall be given by means of a full or partial award conferred upon a candidate by the Sector Skills Unit as authorised by the Commission, on the advice of the Sector Skills Committee, for the granting of that award and for the classification of the award at a specific level of the Malta Qualifications Framework:

Provided that the Commission shall not authorise the conferring of such award upon any person at any level higher than Level 4 of the Malta Qualifications Framework.

(2) Awards conferred by the Sector Skills Units in accordance with this regulation shall have the same value as nationally accredited qualifications classified at the same level of the Malta Qualifications Framework.

(3) Awards conferred by the Sector Skills Units in accordance with this regulation shall stipulate the name of the individual upon whom the award is conferred, the type of award conferred and the date of conferral of the award.

(4) Awards conferred by the Sector Skills Units in accordance with this regulation shall be accompanied by an award supplement, to be drafted in accordance with the requirements of the Sector Skills Committee, as authorised by the Commission. The award supplement shall contain details about the knowledge, skills and competences of the individual upon whom the award is conferred.

(5) When an award is conferred upon a person in accordance with this regulation, the Sector Skills Committee shall include the name of such awardee and of the award in the register of persons awarded full or partial awards classified within the Malta Qualifications Framework in accordance with regulation 5(5).

Financing of the validation procedures.

12. Fees payable to the Sector Skills Units and the Sector Skills Committee shall be proposed by the Commission to the Minister, who shall establish such fees from time to time, by means of a notice in the Gazette.

Appeals.

13. (1) There shall be a Sector Skills Appeals Board, hereinafter referred to as "the Appeals Board" to which any person or body corporate may appeal if aggrieved by a decision taken by Commission, Sector Skills Committee or Sector Skills Units with respect to the validation of non-formal and informal learning in terms of these regulations.

VERŻJONI ELETTRONIKA

(2) Any appeal referred to in sub-regulation (1) shall be filed in the Registry of the Appeals Board within ten days from the date when the decision is communicated to the person or body corporate so aggrieved.

(3) The Appeals Board shall consist of an independent Chairman and two independent Members who shall be appointed by the Minister from among persons of known integrity who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters deemed appropriate for such purpose:

Provided that one of the members of the Appeals Board shall also act as Secretary to the Appeals Board, with the right to vote.

(4) A member of the Appeals Board shall abstain and may be challenged in such circumstances as would disqualify a judge in terms of Sub-title II of Title II of Book Third of the Code of Organization and Civil Procedure; and in any such case the member shall be substituted by another person appointed for such purpose by the Minister. Cap. 12.

(5) The members of the Appeals Board shall hold office for a period of three years, and shall be eligible for re-appointment.

(6) A member of the Appeals Board may be removed from office by the Minister on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Board.

(7) The decisions of the Appeals Board shall be final except with respect to points of law decided by the Appeals Board, from which an appeal shall lie within twenty days to the Court of Appeal (Inferior Jurisdiction); the judge shall have the right to decide *in camera* that such appeal is frivolous or vexatious following the closing of the stage of written submissions; such appeal shall also be regulated by rules of court made under article 29 of the Code of Organization and Civil Procedure. Cap. 12.

VERŻJONI ELETTRONIKA

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — ***Printed at the Government Printing Press on recycled paper***

Prezz/*Price*
€1.17