SUBSIDIARY LEGISLATION 607.03

FURTHER AND HIGHER EDUCATION (LICENSING, ACCREDITATION AND QUALITY ASSURANCE) REGULATIONS

24th September, 2012

LEGAL NOTICE 296 of 2012, as amended by Legal Notice 150 of 2015 and Act II of 2020 and Legal Notice 82 of 2024.

Citation.

1. The title of these regulations is the Further and Higher Education (Licensing, Accreditation and Quality Assurance) Regulations.

Applicability.

2. These regulations shall apply to all those providing, or seeking to provide further or higher education in Malta, including providers established under the Education Act or any regulations made thereunder or by any other Act.

PART I

PRELIMINARY

Interpretation. *Amended by: II.2020.28; L.N. 82 of 2024.*

3. In these regulations, unless the context otherwise requires:

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

"accredited programme" means a programme which has obtained programme accreditation in accordance with these regulations;

"accredited provider" means a provider which has obtained provider accreditation in accordance with these regulations;

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"the Act" means the Further and Higher Education Act;

"agent" means a person, whether within or outside Malta, who represents a provider, acts on behalf of a provider, or purports to do so in cross-border relations relevant to the provider;

"Authority" means the Authority as established by article 3(1) of the Act

"awarding provider" means the provider which is responsible for issuing the qualification awarded;

"body corporate" means a body having a distinct legal personality;

"comparable level" means the comparability of the level of a foreign qualification with the level of a national qualification;

"credit" means a quantified expression of the volume of learning based on the achievement of learning outcomes and their associated workloads;

"document" includes a copy of a document;

"foreign qualification" means a qualification awarded outside Malta and classified within a recognised qualifications framework;

"formal learning" has the same meaning assigned to it by article 2

of the Act;

"further education" has the same meaning assigned to it by article 2 of the Act;

"guidelines" means a set of rules and requirements issued by the Authority from time to time for the implementation of the provisions of these regulations;

"higher education" has the same meaning assigned to it by article 2 of the Act;

"intending student" means a person, whether within or outside Malta, who intends to become, or who has taken any steps towards enrolling, as a student with a provider in Malta;

"internal quality assurance" means a process of internal quality evaluation carried out by a provider and institutionalised within the structure, policy and operations of the provider;

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

"learning outcome" has the meaning assigned to it by the Act or any regulations made thereunder, for the purpose of establishing the Malta Qualifications Framework;

"licence" means a licence issued to a provider in accordance with these regulations, authorising a provider to provide further or higher education in Malta;

"licensee" means a provider licensed by the Authority in accordance with these regulations;

"Malta Qualifications Framework" has the same meaning assigned to it by article 2 of the Act;

"the Minister" means the Minister responsible for education;

"national qualification" means a qualification awarded in Malta and classified at a level of the Malta Qualifications Framework;

"non-compulsory education" means education which serves to obtain a qualification classified at any level of the Malta Qualifications Framework or of a recognised foreign qualifications framework, excluding any qualification obtained upon completion of compulsory education provided in accordance with the framework of the national curriculum established under regulation 2 of the National Curriculum Framework Regulations;

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"non self-awarding provider" means a provider that provides programmes leading to qualifications which are awarded by a third party;

"overseas student" means a person, whether within or outside Malta, who is not a citizen of Malta and is enrolled with a provider in Malta;

"premises" means the whole or part of an area of land or any other place, whether or not it is enclosed or built on, a building or other structure, or a vehicle or vessel;

"Principal Immigration Officer" has the same meaning assigned to it by article 2 of the Immigration Act;

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

"programme accreditation" means the formal acknowledgement, issued by the Authority in accordance with these regulations, of the status, legitimacy and appropriateness of a programme;

"programme quality audit" means a quality audit of the components and activities within a programme and the facilities available therefor;

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

"provider accreditation" means the formal acknowledgement, issued by the Authority in accordance with these regulations, of the status, legitimacy and appropriateness of a provider;

"provider quality audit" means a quality audit of the operation of a provider, including its organisation, strategy, policy, procedures, financial matters, management and facilities;

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

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

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

"quality audit" has the same meaning assigned to it by article 2 of the Act;

"recognised foreign qualifications framework" means a framework of qualifications officially adopted outside Malta and structured in a comparable manner to the Malta Qualifications Framework;

"recognised foreign quality assurance or accreditation agency" means a quality assurance or accreditation agency recognised by the State of its country of origin as an official quality assurance or accreditation agency for providers or programmes of further or higher education;

"self-awarding provider" means a provider that provides programmes leading to qualifications awarded and issued by it;

"serve to obtain" means lead to, or prepare for, obtaining a qualification;

"student visa" means the document issued by the Principal Immigration Officer which gives an individual leave to land and remain in Malta for the purposes of study, for a specific period as indicated therein;

"third-country student" means a person, whether within or outside Malta, who is not a citizen of a country within the European Union and is enrolled with a provider in Malta;

"tuition fee" means the money a provider receives directly or indirectly, from a student, an intending student, or another person who pays the money on behalf of a student or intending student, in

whole or in part, for a programme that the provider is offering or providing to the student. Tuitions fees also include the following:

(*a*) any amount received by the provider in order to pay, on behalf of the student, to any third party as agreed with the student or any representative or legal guardian of the student in a written agreement; and

(*b*) any other amount that the student has to pay the provider, directly or indirectly, in order to undertake the programme.

Competent authority for licensing, accreditation and quality assurance. *Amended by: L.N. 82 of 2024.*

4. (1) In accordance with article 3(2) of the Act, the Authority shall be the competent authority for licensing, accreditation and quality assurance of providers and programmes.

(2) Where reference is made under these regulations to adherence to guidelines made and published by the Authority, the Authority is authorised to issue, amend and revoke guidelines as it deems fit for the purpose of the implementation of the respective provisions of these regulations.

(3) For the purposes of its accreditation and external quality assurance functions, the Authority shall be sufficiently independent from government, from providers as well as from business, industry and professional associations in all their operations and decisions.

(4) In accordance with article 17 of the Act, the Authority shall establish a Quality Assurance Committee to carry out its licensing, accreditation and quality assurance functions under these regulations. Decisions taken by the Quality Assurance Committee require adoption by the Authority for their validity and enforcement:

Provided that reference to "the Authority" under these regulations shall be construed as reference to the Quality Assurance Committee, unless the context shall otherwise require.

(5) The Quality Assurance Committee referred to in the previous sub-regulation shall compile and send to the Authority an annual report, not later than four weeks after the end of each financial year, on its activities during that year, including the policies, functions and future plans of the Quality Assurance Committee. Such report shall be integrated with the annual report to be compiled and sent by the Authority to the Minister in accordance with the article 17(5) of the Act:

Provided that such annual report may include matters relating to quality assurance and accreditation, including the standards and outcomes of the Maltese further and higher education system, processes and international standing, and the impact of these regulations and any guidelines issued under these regulations on Maltese further and higher education, using information available through quality audits and accreditation, and from other sources.

Authority to enter into agreements with sectoral bodies.

(6) In undertaking its functions as the competent authority for licensing, accreditation and quality assurance of providers and programmes under these regulations, the Authority shall enter into

agreements with sectoral bodies engaged in matters which in any manner relate to the regulation, supervision, monitoring or quality of the provision of further or higher education, with the purpose of setting up a system for such sectoral bodies to assist the Authority in its functions under these regulations.

PART II

LICENSING OF PROVIDERS

Requirement of a licence. *Amended by: L.N. 150 of 2015.*

5. (1) All providers providing further or higher education in or from Malta require a licence issued by the Authority to operate in Malta. A licence to provide further or higher education under these regulations shall only be issued, renewed, changed or extended if the provider complies with the provisions of these regulations:

Provided that it shall not be lawful for an unlicensed provider to provide further or higher education in or from Malta, whether under an arrangement with a licensee or otherwise.

(2) A provider is to carry on its activity in Malta in order to be eligible to apply for a licence:

Provided that these regulations do not preclude foreign ownership.

(3) In accordance with regulation 8(3), provider and programme accreditation obtained under these regulations shall be required in order for a provider to apply for the licence referred to in sub-regulation (1). The validity of such licence shall be contingent upon the continued applicability of accreditation on the basis of periodic quality audits in accordance with regulation 37(1)(*c*).

(4) Where a provider has obtained a licence under these regulations, it is prohibited for such provider to provide further or higher education programmes at a level of the Malta Qualifications Framework not indicated in such licence.

(5) All providers shall comply with the provisions of these regulations and any guidelines made by the Authority under these regulations from time to time.

(6) Any provider that fails to comply with any of the provisions of these regulations or any guidelines established by the Authority in accordance with these regulations shall be liable to an administrative fine not exceeding four thousand euro (€4,000).

(7) Whenever the Authority has imposed an administrative fine in accordance with these regulations, the Authority may impose an additional penalty not exceeding one hundred and sixteen euro and forty-seven cents (€116.47) for each day during which the offence continues.

(8) The Authority shall be responsible for the imposition of such fines and for their enforcement upon any person or provider contravening these regulations and the guidelines referred to in sub-regulations (6) and (7), taking into account the gravity of the non-compliance and any payments made to that provider for the

undertaking of a further or higher education programme.

Imposition of administrative penalty.
Added by: L.N. 150 of 2015.

5A. (1) The Authority shall, before imposing an administrative penalty upon any person or provider who infringes or fails to comply with -

(*a*) any provision of these regulations;

(*b*) any directive or decision given by the Authority under these regulations;

(*c*) any condition of any authorisation granted under these regulations,

by judicial letter to the person concerned -

(i) give notice of the administrative penalty that may be imposed by the Authority;

(ii) give notice of the specific reason why such penalty may be imposed;

(iii) give notice of the amount of the penalty;

(iv) demand that the provider concerned rectify the acts or omissions committed by such person and, or make submissions to the Authority within a specified time:

Provided that such time may not be of more than twenty days and of not less than five days from the date of service of the judicial letter:

Provided further that the person or provider, against whom an administrative penalty may be imposed, shall be given a reasonable opportunity during such period of time as may be stipulated in the judicial letter to make submissions to the Authority and to propose any remedies that rectify the acts or omissions required by the Authority to be so rectified.

(2) In the judicial letter mentioned in sub-regulation (1) the Authority may impose such conditions as it may consider reasonable in the circumstances.

(3) If the person concerned remedies the infringement within the period established by the Authority in accordance with the first proviso to sub-regulation (1), and agrees in writing to abide with any conditions that the Authority may impose, the Authority shall desist from proceeding any further:

Provided that if the provider concerned, after having been bound in writing as stated above, fails to remedy the infringement within the period established by the Authority in accordance with the first proviso to sub-regulation (1) or fails to abide with any conditions agreed to in writing, the Authority shall impose against such person an administrative penalty for such failure, in addition to the administrative penalty which may be imposed for the infringement itself.

(4) If, after the lapse of the period mentioned in the first proviso to sub-regulation (1), the Authority considers that the person concerned has not given any valid reasons to demonstrate

why no administrative penalty should be imposed against such person, the Authority shall proceed to impose such administrative penalty.

(5) Notwithstanding any other provision of this regulation, where the Authority has *prima facie* evidence that the infringement -

(*a*) represents an immediate or serious threat to public interest; or

(*b*) creates or may create serious economic or operational problems for other providers or for students, the Authority may shorten the periods mentioned in the first proviso to sub-regulation (1):

Provided that the person against whom such administrative penalty is imposed shall be given a reasonable opportunity to state any views and propose any possible remedies.

(6) The Authority shall give its reasons for any decision taken under sub-regulation (5).

(7) An administrative penalty imposed by the Authority upon any person shall be considered a civil debt.

Exceptions and exclusions.

6. (1) Providers providing the following types of programmes do not require a licence issued under these regulations in order to provide these programmes:

(*a*) short programmes or courses which lead to a certificate of attendance;

(*b*) continuous professional development programmes or courses which are regulated by professional accreditation bodies;

(*c*) any type of programme which does not purport to serve for obtaining a qualification classified within the Malta Qualifications Framework or a recognised foreign qualifications framework;

(*d*) programmes developed and provided by a company for proprietary purposes, or provided by other bodies or entities on its behalf, and for exclusive use within that company, which proprietary purposes shall be reflected in the name of the certificate or other type of award obtained upon successful completion of that programme:

Provided that providers providing the programmes referred to in this regulation shall seek accreditation and apply for a licence under these regulations where they require such programmes to serve for obtaining qualifications classified within the Malta Qualifications Framework or a recognised foreign qualifications framework.

(2) The Authority may make guidelines in order to exempt further education centres, as defined in the Second Schedule, from the requirements of provider or programme accreditation or of quality assurance under these regulations.

Reasonable doubt.

7. In the event of reasonable doubt as to whether an activity constitutes the act of provision of further or higher education, or whether the activity of a provider is or is not being transacted in or from Malta, the matter shall be conclusively determined by the Authority.

Application for a licence.
Amended by: L.N. 150 of 2015.

8. (1) Any new or unlicensed provider seeking to obtain a licence or any licensee seeking to renew or change its licence or extend the category under which it is licensed under these regulations, is required to apply to the Authority for such purpose.

(2) The Authority may grant or refuse any application made under sub-regulation (1) in accordance with these regulations.

(3) In accordance with regulation 5(3), prior to making an application under sub-regulation (1), providers seeking to make such application shall be required to obtain both provider accreditation and programme accreditation under these regulations:

Provided that applicants seeking to be licensed as Tuition Centres in accordance with the Third Schedule shall be exempted from seeking programme accreditation in parallel to provider accreditation.

(4) For the purpose of fulfilling the requirements of regulation 5(3) and sub-regulation (3), programme accreditation for all programmes offered by a provider shall be issued on the basis of quality audits of a sample of the programmes offered by the provider, which sample is to be determined by the Authority and which shall, in every case, implicate a similar percentage of programmes across all providers.

(5) Notwithstanding the generality of the provisions of regulation 5(3) and sub-regulation (3), where a provider provides further or higher education that serves to obtain a further or higher education qualification only in part, "programme accreditation" shall be construed as referring to that part of the programme provided. Such part programme shall be accredited as a "further education module" or "higher education module" as defined in the Third Schedule.

Self-accrediting providers.

(6) Notwithstanding the generality of the provisions of regulation 5(3) and sub-regulation (3), providers established by the Act or any regulation made thereunder, or by any other law, and granted the status of self-accrediting providers as defined in the First Schedule shall be exempt from the requirement of first-time accreditation:

Provided that self-accrediting providers shall be required to review such status through provider and programme quality audits undertaken in accordance with regulation 37(1)(*c*), prior to the lapse of five years from the date of the coming into force of these regulations, and every five years periodically thereafter:

Provided further that in the event of a negative outcome of such quality audit, the Authority may impose any condition or restriction that it may deem necessary in accordance with regulations 12 and 13 respectively on such self-accrediting providers.

Application for extension of a licence.

(7) For the purpose of fulfilling the requirements of regulation 5(3) and of sub-regulation (3), where a provider already licensed in one or more of the licence categories referred to in the Second Schedule applies for the extension of its licence to another licence category, the Authority may exempt the provider from undergoing a provider quality audit to serve as the basis for extension of the provider's licence to a new category:

Provided that the Authority may so exempt the provider from undergoing an additional provider quality audit only if it is satisfied, on the basis of programme quality audits carried out for the purpose of assessing new programmes to be offered by the provider, and on the basis of a previous provider quality audit, that such provider quality audit is not necessary in the circumstances:

Provided further that, in such case, the Authority may issue provisional provider accreditation in accordance with regulation 34(2)(*d*), for the remaining term up to the date of expiry of the provider's existing provider accreditation, as it deems appropriate. On the basis of such provisional provider accreditation, the Authority shall issue a provisional extension of the provider's licence, which provisional extension shall be valid for the same term as the provisional accreditation.

(8) The Authority shall make and publish guidelines to establish such information to be supplied by providers for the purpose of an application under sub-regulation (1):

Provided that, by means of such guidelines, the Authority may establish different information requirements for different categories of licensees referred to in the Second Schedule.

(9) An application made under sub-regulation (1) may only be withdrawn by written notice to the Authority at a time before the licence has been issued or refused.

(10) The Authority shall determine each application made under sub-regulation (1) within thirty working days of receipt of the application or, if the application does not comply with subregulation (3) or if additional information is required, within thirty days of compliance with the said sub-regulation or the furnishing of the additional information as the case may be.

Issuing of a licence. *Amended by: L.N. 150 of 2015.*

9. (1) A provider shall apply for a licence to operate in one or more of the following categories of providers' licences as defined in the Second Schedule:

(*a*) a University;

(*b*) a Higher education institution;

(*c*) a Further education institution;

(*d*) a Further education centre; or

(*e*) a Tuition Centre:

Provided that a provider must be a body corporate in order to be eligible to be licensed in the categories referred to in paragraphs (*a*), (*b*) or (*c*) and that a provider has to be an individual in order to be eligible to be licensed in the category referred to in

paragraph (*d*):

Provided further that, for a provider to be eligible to be licensed under paragraph (*e*), such provider may be either an individual or a body corporate.

(2) The licence issued by the Authority shall authorise a provider to operate in one or more of the categories referred to in sub-regulation (1) and, in the case of categories (*a*) to (*d*), to offer further or higher education programmes classified at specified levels of the Malta Qualifications Framework.

(3) The Authority may issue a provisional licence where provisional provider accreditation has been granted in accordance with regulation 34(2)(*d*).

(4) A licence issued under these regulations shall be issued in the name of the provider and shall be assigned a licence number.

(5) A licence issued under these regulations shall indicate the following:

(*a*) the licence number;

(*b*) the name of the provider;

(*c*) the name of the person vested with the legal representation of the provider;

(*d*) the category or categories for which the licence has been issued, in accordance with the categories referred to in sub-regulation (1);

(*e*) any further or higher education programmes, identified by means of their respective Malta Qualifications Framework level, that the licensee is authorised to provide by means of such licence;

(*f*) any courses not pegged to the Malta Qualifications Framework offered by Tuition Centres licensed under paragraph (*e*); and

(*g*) any condition or restriction imposed on the licensee in accordance with regulations 12 and 13.

(6) The Authority shall make and publish guidelines to establish such information to be supplied annually by licensees:

Provided that, by means of such guidelines, the Authority may establish different information requirements for different categories of licensees referred to in the Second Schedule.

Register of licensed and accredited providers. *Amended by: L.N. 82 of 2024.*

10. All licensed providers in Malta shall be included in the register of licensed and accredited providers operating in Malta maintained and published by the Authority in accordance with article 3 of the Act.

Refusal to issue, renew, change or extend a licence.

11. (1) The Authority may refuse to issue, renew, change or extend a licence in the following circumstances:

(*a*) if the applicant provider is found to be in violation of the provisions of these regulations or of any guidelines made and published by the Authority in accordance

with these regulations;

(*b*) if it is satisfied that any person employed or proposed to be employed by the provider in a headship position is not of good conduct or has been convicted of an offence;

(*c*) if it is satisfied that the legal representative of the provider, or, where the provider is a body corporate, any of its members:

(i) is not of good conduct;

(ii) has been convicted of an offence;

(iii) is disqualified from managing corporations under the provisions of any law; or

(iv) is subject to any law, regulation, administrative provision, or is in any other manner prevented from acting in the capacity assigned to him;

(*d*) the Authority may also refuse to issue, renew, change or extend a licence if it is satisfied that:

(i) the provider 's registration has ever been cancelled or suspended for any one or more programmes from any other official authority;

(ii) the provider is subject to any law, regulation, administrative provision, or is in any other manner prevented from acting as a provider in Malta;

(iii) the provider uses or proposes to use its premises in contravention of applicable development and planning regulations or for any purposes which are in any way improper, unethical or unlawful; or

(iv) the provider uses or proposes to use premises which provide a hazard to those within.

(2) Where the Authority refuses an application to issue, renew, change or extend a licence under these regulations it shall inform the applicant in writing with the reasons for the refusal.

Exemptions.

(3) All public further or higher education providers established by the Act or any regulations made thereunder or by any other law shall be deemed to have a licence in accordance with these regulations:

Provided that such providers shall be required to undertake any provider and programme quality audits that are required in accordance with regulation 37(1) and these shall be undertaken prior to the lapse of five years from the date of the coming into force of these regulations and every five years periodically thereafter, in the manner provided in regulation 38.

Licence conditions.

12. (1) Upon issuing a licence, the Authority may impose conditions on the licensee in accordance with the requirements of these regulations or any guidelines made and published by the Authority in accordance with these regulations.

(2) The Authority may make the conditions referred to in sub-regulation (1) applicable for a specific period of time. In such case, it shall specify the length of such period in the licence. In the event of no such specification in the licence, the condition shall be deemed to apply for the whole duration of the licence.

(3) At any time after having issued a licence, the Authority may vary or remove any condition imposed under sub-regulation (1) or impose new conditions on the licensee in accordance with these regulations or any guidelines made and published by the Authority in accordance with these regulations, where these refer to licensees.

Licence restrictions.

13. (1) At any time after having issued a licence, the Authority may impose restrictions on the licensee in any of the following cases:

(*a*) if any document or information accompanying an application for a licence or any information given in connection therewith is false or if the licensee conceals from, or fails to notify the Authority of, any document or information or change therein which was its duty to reveal or notify under these regulations or in accordance with any guidelines made and published by the Authority in accordance with these regulations;

(*b*) if programme accreditation previously granted to a licensee is revoked in accordance with the provisions of these regulations;

(*c*) if the licensee ceases to carry on the activity pursuant to the licence in Malta for more than six months;

(*d*) if the licensee fails to comply with the conditions under which the licence has been issued;

(*e*) if the licensee is likely to become unable to meet its obligations under the licence; or

(*f*) due to any other matter in violation of the provisions of these regulations or any guidelines made and published by the Authority in accordance with these regulations, where these refer to licensees.

(2) The Authority may vary or remove any restriction imposed under this regulation at any time after having issued a licence.

(3) Restrictions imposed by the Authority in accordance with this regulation shall be such as the Authority shall consider appropriate for the proper compliance by the licensee with the requirements of these regulations or any guidelines made and published by the Authority in accordance with these regulations, where these refer to licensees.

Revocation or suspension of a licence.

14. (1) The Authority shall revoke a licence in the following circumstances:

(*a*) where the licensee breaches any condition or restriction imposed by the Authority in accordance with the provisions of these regulations:

Provided that where the Authority has imposed on the licensee a condition or restriction in accordance with regulations 12 or 13, it may only revoke a licence on the expiration of the time period provided in regulation 15(1)(*a*);

(*b*) where the licensee is declared bankrupt or makes a composition with its creditors or otherwise ceases to operate; or

(*c*) where the licensee acts in any manner that severely violates the provisions of these regulations or of any guidelines made and published by the Authority in accordance with these regulations, where these refer to the licensees.

(2) Where the Authority intends to revoke a licence in accordance with this regulation, it shall serve written notice on the licensee and shall specify therein the grounds on which it intends to take such action, and a reasonable time period in which the licensee shall be entitled to make representations to the Authority as to why such action should not be taken:

Provided that the Authority may revoke such licence before the expiry of such period, where it considers it reasonably justifiable on an evaluation of the circumstances.

Notification.

15. (1) Where the Authority intends to impose, vary or remove conditions or restrictions on licensees in accordance with regulations 12 and 13, it shall serve written notice on the licensee of its intention, and shall specify therein the following:

(*a*) the type of condition, restriction, variation or removal thereof and the duration of the time period of its applicability:

Provided that where no such time period is specified in the notice, any new condition or restriction shall be deemed to apply for the whole duration of the licence and any variation of the condition or restriction shall be deemed to apply for the duration of the previously-imposed condition or restriction, as the case may be;

(*b*) the grounds on which it intends to take such action;

(*c*) a reasonable time period in which the provider shall be entitled to make representations to the Authority as to why such action should not be taken; and

(*d*) a reasonable time period during which the provider is required to arrange its affairs to meet the imposed condition or restriction or variation thereof.

(2) Where the Authority intends to revoke or suspend a licence in accordance with regulation 14, it shall serve written notice on the licensee of its intention, and shall specify therein the following:

(*a*) the grounds on which it intends to take such action;

(*b*) a reasonable time period in which the provider shall be entitled to make representations to the Authority as to why such action should not be taken; and

(*c*) a reasonable time period during which the provider is required to arrange its affairs in order for the revocation or suspension not to be effected.

Effect of licence.

16. A licence shall cease to have effect where the licensee renounces the licence or where licensee no longer maintains provider accreditation in accordance with these regulations.

Notification to competent authorities overseas.

17. Upon the imposition of conditions or restrictions on a licensee, or the revocation of a licence under these regulations and when a licence ceases to have effect in accordance with these regulations, the Authority shall inform the competent authorities in any foreign states in which the provider or its subsidiaries are carrying on any activity related to the licence held or previously issued under these regulations.

PART III

OBLIGATIONS OF LICENCEES

Periodic quality audits.

18. (1) Prior to the lapse of five years from the date of obtaining their licence, or of a change or renewal of their licence, as the case may be, licensees shall apply to the Authority for a review of their provider and programme accreditation, through periodic provider and programme quality audits, in accordance with regulations 37(1)(*c*) and 38.

(2) Failure to apply for such review or to maintain provider accreditation following such audits shall render void the licence previously issued under these regulations.

Legal representative of the licensee.

19. (1) The legal representative of a licensee, as specified on the licence, shall be responsible to ensure that all the obligations attached to that licence are observed at all times.

(2) Where the person specified in the licence as being vested with the legal representation of the licensee is divested of such capacity for any reason whatsoever, the provider shall notify the Authority of this in writing without delay and submit the particulars of the person who has assumed that office. Thereafter the licence shall specify the name of the person so indicated as legal representative of that provider.

(3) Where a licensee, or the person specified in the licence as being vested with the legal representation thereof, shall, after a provider is licensed under these regulations, become subject to any change concerning the application of regulations 11(*c*)(iv) or 11(*d*)(ii), as the case may be, the licensee shall notify the Authority forthwith of such changes in writing, without delay.

(4) The legal representative of a licensee shall be based in Malta:

Provided that, in his absence, the licensee's legal representative may make adequate arrangements to ensure that another person is designated to take over his duties temporarily.

Notification of changes by licensee.

20. (1) Licensees shall notify the Authority, in writing and without delay, of any changes to the information provided under

these regulations.

(2) Where a licensee is a body corporate, it shall be the duty of the licensee to inform the Authority, in writing and without delay, of any change in the members of the body corporate.

(3) Licensees shall provide the Authority with the information necessary to monitor compliance with the criteria referred to in regulation 11(1) in a continuous manner.

(4) Where a licensee intends to take any action that departs from the original submissions to the Authority, or that may not be in conformity with the conditions or restrictions of the licence, the licensee shall, before taking such action, notify the Authority of this in writing. The Authority shall, within two months of receiving such notification give its consent or otherwise.

Display of licence.

21. Licensees shall keep affixed the licence issued under these regulations in a clearly visible place in the premises from which the licensee operates.

Educational resources and materials.

22. Licensees shall ensure that adequate resources and materials for the provision of quality further and higher education are available in accordance with guidelines made and published by the Authority for such purpose.

Adverts and student information.

23. (1) Licensees shall clearly state their licence number and the category under which they are licensed, as defined in the Second Schedule, in all media, advertising, published material or promotional material to intending students, students, parents or the public.

(2) Where the media, advertising, published material or promotional material to intending students, students, parents or the public concerns a specific programme, licensees shall also state the accredited status of such programme, as provided in the Third Schedule, and the level of qualification awarded or addressed, within the Malta Qualifications Framework, or its comparable level, as the case may be.

(3) Licensees shall ensure that all adverts and student information provided by them shall be carried out with integrity and accuracy.

Student enrolment.

24. (1) Licensees shall not make an offer to an intending student for enrolment in a programme if they have not given such intending student information about the programme in accordance with guidelines made and published by the Authority for such purpose:

Provided that, by means of such guidelines, the Authority may establish different types of information required to be given to local and overseas intending students and by different categories of licensees as defined in the Second Schedule.

(2) Licensees shall ensure that their recruitment of students is conducted in an ethical and responsible manner and that any offer of a place in a programme made to a student is based on an assessment, by a suitably qualified person, of the extent to which

the student's qualifications and proficiencies are appropriate to the programme.

(3) Other than any reasonably justifiable payment upon application, licensees shall charge payment of any tuition fees for a programme, from a student or an intending student, only where the following conditions have been fulfilled:

(*a*) such student has been notified in writing of his acceptance to the programme; and

(*b*) an agreement has been drawn up with the student in accordance with regulation 26:

Provided that where a licensee is established by means of the Act or regulations made thereunder, or by any other law, restrictions therein relating to the charging of fees are observed.

(4) Licensees must obtain evidence that assessment of an intending overseas student's proficiency in the language relevant for the purpose of undertaking the envisaged programme has been carried out:

Provided that where a student does not have the requisite language skills, licensees shall offer such student learning opportunities in the relevant language, while also offering ongoing linguistic support and advice throughout the duration of the programme.

(5) Licensees shall not enrol an intending third country student who is not in possession of a student visa. Once a third-country student has enrolled in a programme, licensees shall not allow him to defer commencement of his studies, or to suspend his studies, except on the grounds of illness, evidenced by a doctor's certificate, or other exceptional circumstances beyond the control of the student. Where a student defers or suspends his studies on any other grounds, the licensee is bound to report the non-compliance of such student with the relative visa conditions to the Principal Immigration Officer.

Student records.

25. (1) Licensees shall keep a record of each student's academic performance and a record of students' attendance in accordance with guidelines made and published by the Authority for such purpose:

Provided that, by means of such guidelines, the Authority may establish different types of records that shall be required to be kept by different categories of licensees as provided in the Second Schedule:

Provided further that, by means of such guidelines, the Authority may also exempt categories of providers provided in the Second Schedule from keeping a record of students' attendance.

(2) Student attendance records may be required by the Principal Immigration Officer as evidence that overseas students satisfy visa requirements relating to attendance and academic performance.

Agreement with the student.

26. (1) Prior to the beginning of a programme, and prior to the student or other person directly or indirectly on his behalf, making any payment to the licensee, the licensee shall draw up a written agreement with the intending student in relation to such student's enrolment in that programme, hereinafter referred to "the student agreement".

(2) The student agreement shall be clearly understandable by the student and specific in its requirements as to the duties of the student and the licensee.

(3) Licensees shall ensure that the student agreement referred to in sub-regulation (1) shall make provision for refund procedures and default conditions.

(4) Licensees shall not engage in conduct that is false, misleading, deceptive or otherwise inept in drawing up the provisions of the student agreement relating to student refunds.

(5) Licensees shall ensure that the provisions of the student agreement relating to student refunds meet the following minimum standards:

(*a*) the student agreement shall guarantee students' rights, including the right to obtain assessment results upon the student having completed all the necessary assessment requirements of the programme or parts thereof;

(*b*) the circumstances in which the licensee will provide a refund shall be clearly stated;

(c) the terms regarding how a student should apply for a refund shall be clearly stated;

(*d*) the refund provisions to apply shall generally be compatible with consumer protection law, including a statement to the effect that the agreement shall not deny the students' right to take further action under the Consumer Affairs Act; and

Cap. 378.

(*e*) the licensee's dispute resolution process shall be clearly explained, including a statement to the effect that such dispute resolution process shall not prevent students from seeking other legal remedies.

(6) In the student agreement, the licensee shall advise intending overseas students of their duty to furnish the licensee with any change in their contact details, which include their residential address and telephone number in Malta as well as a contact address overseas, following the completion of their studies.

Licensee default.

27. (1) A licensee shall be deemed to be in default of the student agreement in relation to a programme in the following circumstances:

(*a*) the programme does not start on the agreed starting day;

(*b*) the programme ceases to be provided at any time after it starts but before it is completed; or

(*c*) the programme is not provided in full to the student due to a condition or restriction imposed on the licensee by the Authority in accordance with these regulations or due to the revocation, by the Authority, of the applicable licence or accreditation in accordance with these regulations:

Provided that where the intending student or the student has withdrawn from the programme before the day on which such circumstances arise, licensees shall not be deemed to be so in default.

(2) A licensee shall also be deemed to be in default of its agreement with the student if it fails to issue all examination and other assessment results to the student upon the student having completed all the necessary assessment requirements of the programme or parts thereof.

Student default.

28. Intending students and students shall be deemed to be in default of the student agreement in the following circumstances:

(*a*) where they withdraw from the programme either before or after the agreed starting day;

(*b*) where, not having previously withdrawn from the programme, they fail to start the programme on the agreed starting day;

(*c*) where they fail to pay an amount they were directly or indirectly liable to pay the licensee in order to undertake the programme; or

(*d*) where they breach a condition of their student visa.

Guidelines on agreement and default.

29. The Authority may make and publish guidelines, as it deems necessary, in order to establish the following:

(*a*) further requirements in relation to the student agreement in addition to the provisions of regulation 26;

(*b*) further instances of licensee default and student default in addition to the provisions of regulations 27 and 28;

(*c*) requirements and procedures relating to refunds that may be due to the student where instances of licensee default arise; and

(*d*) requirements relating to student support:

Provided that, by means of such guidelines, the Authority may establish different types of requirements with respect to local and overseas students and to different categories of licensees provided in the Second Schedule.

Obligations of further education licensees.
Amended by: L.N. 150 of 2015.

30. (1) It shall not be lawful for licensees in the categories "further education institution", "further education centre" or "Tuition Centre" as defined in the Second Schedule to use the following words in any media, advertising, published material, promotional material or in any information otherwise supplied to

intending students, students, parents or the public:

(*a*) the word "higher" or "university" in any part of their name; and

(*b*) the word "university", "degree", "masters", "master" or "higher" in any title of, or with reference to, any programme provided or award conferred by them:

Provided that it shall be lawful for an "English as a foreign language teaching centre" to use the word "higher" with reference to a higher education programme that serves to obtain a teaching qualification in English as a foreign language and which the Authority has accredited it to provide in accordance with the Second Schedule.

(2) Without prejudice to the provisions of sub-regulation (1), licensees in the category "further education centre" or "tuition centre", as defined in the Second Schedule, shall not use the word "institution" or "institute" in any media, advertising, published material, promotional material or in any information otherwise supplied to intending students, students, parents or the public, in relation to any part of their name or in any title of, or with reference to, any programme provided or award conferred by them.

Obligations of higher education licensees.

31. Licensees in the category "higher education institution" as defined in the Second Schedule shall not use the word "university" in any media, advertising, published material, promotional material or in any information otherwise supplied to intending students, students, parents or the public in relation to any part of their name or in any title of, or with reference to, any programme provided or award conferred by them:

Provided that such licensees shall not be prohibited from using the word "university" in any title of, or with reference to, any programme, or part thereof, accredited in accordance with these regulations and provided by them in agreement with a licensed university or an overseas university, whether by means of a joint programme or otherwise. This proviso shall apply only where such programme has fulfilled the requirements related to the recognition of foreign qualifications under the Act, these regulations or any other law, and where the programme serves to obtain a national qualification classified at Malta Qualifications Framework level 5 or higher and is awarded by a licensed university as defined in the Second Schedule or a foreign qualification at a comparable level which is awarded by an overseas university.

Branches and agency.

32. (1) Licensees shall inform the Authority in writing prior to opening a new branch, subsidiary, or office in Malta and shall not open a branch or office without the prior approval of the Authority.

(2) Licensees shall inform the Authority in writing prior to entering into agency arrangements with third parties and shall not enter into any such agreement without the prior approval of the Authority.

(3) A person who is appointed as the agent of a licensee shall

only act as agent in respect of those activities for which the same licensee is licensed under these regulations.

(4) Licensees shall not accept or continue to accept overseas students recruited by an agent, or authorise an agent to act on their behalf, if they know, or reasonably suspect that their agent is:

(*a*) engaging in dishonest practices, including suggesting to overseas students that they enter Malta on a student visa with a primary purpose other than full-time study;

(*b*) facilitating the enrolment of third-country students who do not comply with the conditions of their student visas; or

(*c*) engaging in false or misleading advertising and recruitment practices.

(5) The Authority shall make and publish guidelines to establish such information to be supplied by the licensee in seeking approval under this regulation:

Provided that, by means of such guidelines, the Authority may establish different requirements for different categories of licensees provided in the Second Schedule.

(6) The Authority may grant or refuse the approval applied for under this regulation within the time prescribed in regulation 8(10).

(7) In granting the approval referred to in sub-regulation (6), the Authority may subject the licensee and the branch, subsidiary, office or agent to such conditions or restrictions as it may deem appropriate in accordance with the provisions of regulations 12 and 13, and after granting its approval, it may from time to time vary any condition or restriction so imposed or impose new conditions or restrictions in accordance with the provisions of regulations 12 and 13.

(8) The Authority may also subject the branch, subsidiary, office or agent approved in accordance with this regulation to any of the obligations imposed on the licensee under these regulations.

(9) The Authority may refuse to grant, or revoke, the approval granted as referred to under sub-regulation (6) where the circumstances provided for in regulations 11 and 16, respectively, apply *mutatis mutandis*.

(10) Without prejudice to the generality of sub-regulation (9), the Authority may also refuse to grant the approval applied for under this regulation in the following circumstances:

(*a*) where it satisfied that the activities to be performed by the agent could be performed by the provider through its head office, or a branch or subsidiary; or

(*b*) where it is not satisfied that the person who shall be appointed as agent is competent to provide the activities which shall form part of the agency agreement.

(11) Where the Authority refuses to grant the approval applied for under this regulation, it shall notify the licensee in writing of

the reasons for the refusal.

PART IV

ACCREDITATION AND QUALITY ASSURANCE

Competent authority for accreditation and quality assurance.

33. For the purposes of its function as the competent authority for accreditation and quality assurance of providers and programmes in accordance with these regulations, the Authority shall have such aims and objectives, powers, functions and procedures as provided in this Part.

Aims, objectives, powers and responsibilities of the Authority. *Amended by: L.N. 82 of 2024.*

34. The Authority shall have the following aims and objectives:

(*a*) to safeguard the quality of further and higher education within the economic, social and cultural context of Malta, taking into account the wider international dimension of further and higher education;

(*b*) to encourage and help providers in Malta to use appropriate quality assurance measures as a means of improving the quality of teaching and learning in further and higher education;

(*c*) to stimulate the general raising of standards in the provision of further and higher education; and

(*d*) to stimulate a mutual exchange of information across borders on quality assurance and accreditation in further and higher education and to encourage cooperation between providers.

(2) The Authority shall have the following powers and functions:

(*a*) to make and publish a mission statement regarding its accreditation and quality assurance functions, which statement shall contain the following:

(i) explicit goals and objectives of its accreditation and quality assurance processes;

(ii) the division of labour with relevant stakeholders in further or higher education;

(iii) an assertion that quality assurance and accreditation are its major activities; and

(iv) an assertion that there exists a systematic approach to achieving its goals and objectives;

(*b*) to adopt documentation to demonstrate how its mission statement is translated into a clear policy and management plan;

(*c*) to undertake accreditation and quality assurance activities on a regular basis, by granting, refusing, confirming or revoking programme or provider accreditation based on programme or provider quality audits, as the case may be, as provided in regulation 37(1);

(*d*) to assign additional conditions to provider or programme accreditation, including any of the following:

(i) granting provisional programme or provider accreditation status, subject to stipulated conditions;

(ii) granting accreditation for a period less than five years; or

(iii) assigning any other conditions as it may deem fit in fulfilling its functions under these regulations;

(*e*) to make and publish guidelines on the procedures for applying for and conducting quality audits and accreditation processes, including time schedules, deadlines and other conditions;

(*f*) to be rigorous, fair and consistent in decision-making;

(*g*) to be transparent in its operations and publish and make officially available policies, procedures, processes, guidelines and criteria;

(*h*) to charge fees to providers seeking any type of accreditation under these regulations, including costs related to any quality audit carried out under its responsibility;

(*i*) to make and publish guidelines and criteria for the internal quality assurance system required by providers in accordance with regulation 36, applying the relevant European and international standards, guidelines and criteria and respect for international treaties and agreements relevant to further and higher education provision as ratified or endorsed by Malta;

(*j*) to make, publish and consistently apply guidelines containing the criteria and procedures to be used in accreditation and external quality assurance activities undertaken by it;

(*k*) to investigate, in accordance with these regulations, allegations of practices and activities, which it considers *prima facie* to be detrimental to students in further or higher education and to take measures to suppress and prevent unfair or harmful practices which it considers detrimental to such students;

(*l*) in accordance with its functions and duties under article 3 of the Act, to maintain a register of national qualifications and of officially recognised foreign qualifications provided in Malta which are obtained upon the successful completion of a programme accredited in accordance with these regulations;

(*m*) to act as a knowledge and information centre on quality assurance and accreditation in further and higher education and to inform students and society at large on the quality and accredited status of providers

and their programmes;

(*n*) to secure adequate and proportional resources, both human and financial, to enable it to organise and run its quality audits and accreditation processes in an effective and efficient manner and to develop its processes and procedures;

(*o*) to adhere to European and international standards as approved by the Minister, and seek membership in reputable international networks of quality assurance and of accreditation;

(*p*) to cooperate with quality assurance and accreditation authorities in other countries with respect to providers and programmes operating across borders or operating jointly with local providers;

(*q*) to collaborate with other national, international and professional accreditation organisations and develop partnerships with other official quality assurance or accreditation agencies regarding matters directly related to quality assurance and accreditation, in order to facilitate efficient cross-border quality assurance processes and the international transfer of knowledge about such processes; and

(*r*) to act independently, and for such purpose, to adhere to the following:

(i) it shall have autonomous responsibility for its operations;

(ii) it shall ensure that the conclusions and recommendations made in its reports and the outcomes of quality audits and accreditation decisions shall not be influenced by any third parties;

(iii) it shall ensure that the definition and operation of its procedures and methods, and the nomination of its external experts shall not be influenced by any third parties; and

(iv) it shall ensure that while relevant stakeholders, particularly students and academic staff, are consulted in the course of quality assurance processes, the final outcome of any quality audit or accreditation decision remains its responsibility.

Accountability of the Authority.

35. The Authority shall have in place procedures for its own accountability, which shall include the following:

(*a*) documentation which demonstrates that its processes and results reflect its mission and goals of quality assurance and accreditation;

(*b*) a published policy for the assurance of its own quality;

(*c*) its own internal quality assurance system which includes an internal feedback mechanism, an internal reflection mechanism and an external feedback

mechanism in order to inform and underpin its own development and improvement;

(*d*) a cyclical external review of its activities at least once every five years;

(*e*) a no-conflict-of-interest mechanism in the work of its external experts; and

(*f*) a reliable mechanism to ensure the quality of any activities and material produced by subcontractors, where some or all of the elements in its procedures are subcontracted to third parties.

Internal quality assurance.
Amended by: L.N. 150 of 2015.

36. (1) Providers shall have the primary responsibility for the quality of their provision and its quality assurance.

(2) Providers seeking any type of accreditation under these regulations shall have in place an internal quality assurance system which shall be designed specifically to ensure the fitness and properness for purpose of the providers and their programmes, to achieve the aims and objectives set for them. Such quality assurance system shall ensure full conformity with these regulations, including assurance of compliance with the obligations of licence holders as well as any conditions or restrictions imposed by the Authority on the licensee under these regulations, as the case may be:

Provided that providers of further education operating under the licence of a school shall also comply with all the provisions in the Teachers (Code of Behaviour) Regulations and the National Minimum Conditions for all Schools Regulations:

S.L. 327.02
S.L. 327.12

Provided further that tuition centres licensed under these regulations shall also have in place an internal quality assurance system in line with Authority's regulations.

External quality assurance.
Amended by: L.N. 150 of 2015.

37. (1) External quality assurance shall take one of the following forms:

(*a*) a provider quality audit conducted for the purpose of first-time provider accreditation of providers;

(*b*) a programme quality audit conducted for the purpose of first-time accreditation of programmes; and

(*c*) periodic provider and programme quality audits for licences granted under regulation 9(1)(*a*) to (*d*) conducted for the purpose of confirming or revoking the accreditation previously granted under these regulations;

(*d*) periodic provider quality audits for licences ordered under regulation 9(1)(*e*) shall also include an audit of programmes on offer as listed in the licence conditions.

(2) All forms of external quality assurance referred to in sub-regulation (1) shall be carried out under the responsibility of the Authority and shall be conducted applying the relevant European and international standards, guidelines and criteria for external

quality assurance and respect for international treaties and agreements relevant to further and higher education provision as ratified or endorsed by Malta.

(3) The reports from such quality audits shall form the basis for the Authority's decision to grant, refuse, confirm or revoke accreditation.

Periodic quality audits.

38. (1) Providers shall undergo periodic provider and programme quality audits, as provided in regulation 37(1)(*c*), every five years:

Provided that the Authority may, where it demonstrates a justified reason therefor, with respect to a particular provider or programme, prescribe shorter periods for such periodic quality audits:

Provided further that where, in the course of a provider of programme quality audit, a provider is found to have deficiencies that warrant immediate action, the Authority may grant provisional accreditation in accordance with regulation 34(2)(*d*), contingent upon conditions and recommendations on issues to be addressed and action to be taken by the provider.

(2) the Authority shall confirm or revoke provider or programme accreditation status, as the case may be, on the basis of periodic provider or programme quality audits.

(3) Following a periodic quality audit, the Authority may make recommendations and assign conditions to the provider in accordance with the provisions of these regulations.

(4) Periodic quality audits shall take into consideration any progress made by the provider in terms of the recommendations made during previous accreditation and quality audit processes.

Procedures and standards for quality audits and accreditation decisions.

39. (1) The Authority shall conduct quality audits and take accreditation decisions in accordance with the procedures and standards referred to in this regulation.

(2) In making arrangements for quality audits, the Authority shall adhere to the following procedures:

(*a*) it shall require the provider to undertake a self-assessment, internal evaluation or comparable procedure at the provider or programme level, as the case may be;

(*b*) it shall appoint external experts to carry out quality audits, including, as appropriate, one or more students, ensuring that such experts are chosen on the basis of their expertise and on the requirement that there arises no conflict of interest in undertaking the quality audit with respect to the provider undergoing such quality audit;

(*c*) it shall include, as part of the quality audit, a site visit by the external experts, which shall involve the governing bodies, staff and students of the provider, as appropriate;

(*d*) it shall publish the report of the quality audit, including any decisions, recommendations, conditions or other formal outcomes; and

(*e*) it shall establish with the provider a follow-up procedure to review actions to be taken by the provider for the implementation of recommendations and conditions made upon the provider in accordance with the previous paragraph.

(3) In making arrangements for quality audits, the Authority shall adhere to the following standards:

(*a*) quality audits shall be designed specifically to ensure the fitness and properness for purpose of providers or programmes and to assess whether they achieve the aims and objectives set for them;

(*b*) quality audits shall examine the effectiveness of the internal quality assurance processes used by the provider, including an examination of the system's structure, the documentation it produces and the evaluations of quality conducted by the provider;

(*c*) quality audits shall examine the compliance by providers with obligations of licence holders under these regulations, where applicable, as well as any conditions or restrictions imposed by the Authority on the licensee under these regulations;

(*d*) terms of reference, aims and objectives of any quality audit shall be determined before the undertaking of any quality audit and shall be published with a description of the procedures to be used;

(*e*) providers shall be allowed to comment on the composition of the panel of external experts which shall undertake the quality audit and the Authority shall consider such comments before a final decision on the expert panel is made;

(*f*) quality audits shall apply the relevant European and international standards, guidelines and criteria for external quality assurance applicable to the subject of the evaluation and shall be based on written material and discussion with proponents of the provider; and

(*g*) provider quality audits shall include appropriate investigatory mechanisms to ensure financial probity, and where the provider is a body corporate, to ensure that the members of the body corporate, the legal representative and the persons occupying a headship position are fit and proper persons to establish a provider of further or higher education and deliver further or higher education programmes:

Provided that the Authority may seek additional expert advice to assess the financial capacity of the provider.

Reports of quality audits.

40. (1) The Authority shall ensure that reports of quality audits shall be in accordance with the following standards:

(*a*) all reports shall be published and written in a style which is clear to the intended reader in terms of any decisions, commendations or recommendations made;

(*b*) in their report, the experts shall indicate areas where the provider should further develop its system and shall advise as to whether the system as a whole is satisfactory;

(*c*) reports containing recommendations for action or which require a subsequent action plan, should determine a follow-up procedure which is to be implemented consistently; and

(*d*) The Authority shall send the report to the provider, which shall be allowed a time limit of six weeks to submit its views.

(2) Where, from the report of the quality audit, and after the provider has submitted its views in accordance with the previous sub-regulation, the Authority finds fundamental defects concerning the provider or the programme, the provider shall be allowed a reasonable time period, as determined by the Authority, to undertake measures to rectify such defects.

System-wide analyses and summary report.

41. The Authority shall monitor, review and analyse the outcomes of periodic quality audits of providers and programmes and shall produce from time to time system-wide summary reports describing and analysing the general findings of its quality audit and accreditation procedures.

Provider accreditation.

42. (1) Provider accreditation shall be granted by the Authority in accordance with this regulation, upon an application by the provider, in one or more categories corresponding to the licence categories provided in the Second Schedule.

(2) Provider accreditation shall be based on a provider quality audit.

(3) Without prejudice to the generality of the previous sub-regulation, provider accreditation may also be based on a provider quality audit undertaken by a recognised foreign quality assurance or accreditation agency, in which case the Authority shall review the process and outcome of such provider quality audit, and shall decide, on the basis of these and the standards referred to in regulation 39, whether to grant the type of provider accreditation sought by the provider under these regulations or to submit the provider to an additional provider quality audit undertaken by the Authority in accordance with these regulations.

(4) The Authority shall grant provider accreditation status according to one or more categories corresponding to the licence categories provided in the Second Schedule, which status shall clearly state the authority of the provider to provide programmes at given or comparable levels of the Malta Qualifications Framework. Provider accreditation granted under this regulation shall be valid for a period of five years:

Provided that the Authority may, where it demonstrates a justified reason therefor, grant conditional provider accreditation and may also apply shorter periods for the validity of provider accreditation, where appropriate, as provided in these regulations.

(5) Provider accreditation obtained in accordance with this regulation shall be valid for the purpose of obtaining a licence under these regulations.

Programme accreditation. *Amended by: L.N. 82 of 2024.*

43. (1) Programme accreditation shall be granted by the Authority in accordance with this regulation, upon an application by the provider, in one of the categories provided in the Third Schedule.

(2) Providers may apply for accreditation of one programme or of more than one programme to be accredited simultaneously:

Provided that where providers apply for the accreditation of more than one programme simultaneously, the provisions of regulation 8(4) shall apply.

(3) Where a provider applies for accreditation of a programme that serves to obtain a national qualification, programme accreditation:

(*a*) shall be based on a programme quality audit;

(*b*) may, without prejudice to the generality of the previous paragraph, be based on a programme quality audit undertaken by a recognised foreign quality assurance or accreditation agency, in which case the Authority shall review the process and outcome of such programme quality audit, and shall decide, on the basis of these and the standards referred to in regulation 39, whether to grant the type of programme accreditation sought by the provider under these regulations or to submit the provider to an additional programme quality audit undertaken by the Authority in accordance with these regulations.

(4) Where a provider applies for accreditation of a programme that serves to obtain a foreign qualification, and where such provider has already obtained accreditation by a recognised foreign accreditation agency, such provider may request the Authority to approve such foreign accreditation. The following shall apply to this request:

(*a*) where the Authority deems such foreign accreditation satisfactory, it shall assess the credentials and reputation of the recognised foreign accreditation agency and the process to which the programme accredited by it has been subjected;

(*b*) where the Authority deems such foreign accreditation to be unsatisfactory, it shall request such provider to undergo the process of programme accreditation in Malta in accordance with sub-regulation (3);

(*c*) the approval of foreign programme accreditation shall lapse when the period of the foreign accredited status

of the programme lapses:

Provided that where the period for which the foreign accredited status of the programme is less than five years from the date of the decision on programme accreditation, the Authority may, where it deems fit, apply the same period of validity to any provider accreditation granted concomitantly with the approval of such foreign programme accreditation.

(5) Where a qualification is awarded by more than one provider, only one provider shall submit an application for programme accreditation in accordance with this regulation and such provider shall coordinate the process with all other providers involved. Such provider shall be formally responsible for the joint programme and for the compliance of all providers who form part of the joint programme arrangement to the licence and accreditation conditions or restrictions imposed in accordance with these regulations as the case may be.

(6) The Authority shall grant programme accreditation status according to one of the categories provided in the Third Schedule, which status shall clearly state the authority of the provider providing such programme at a given or comparable level of the Malta Qualifications Framework. Programme accreditation granted under this regulation shall be valid for a period of five years:

Provided that the Authority may grant conditional programme accreditation and may also apply shorter periods for the validity of programme accreditation, where it demonstrates a justified reason therefor, as provided in these regulations.

(7) Where the accredited programme leads to a qualification on the successful completion thereof, the Authority shall:

(*a*) where the qualification is a national qualification, classify the qualification at a level of the Malta Qualifications Framework and shall include such qualification in the register of national qualifications maintained by it in accordance with article 3 of the Act;

(*b*) where the qualification is a foreign qualification, classify the qualification at a comparable level of the Malta Qualifications Framework and shall include such qualification in the register of officially recognised foreign qualifications provided in Malta maintained by it in accordance with its functions and duties under article 3 of the Act.

(8) Upon accrediting a programme, or granting endorsement of foreign accreditation to a programme, the Authority shall include such programme in the register of programmes accredited by it in accordance with article 3 of the Act.

(9) Programme accreditation obtained in accordance with this regulation shall be valid for the purpose of obtaining a licence under these regulations.

Re-application, change or extension of accreditation.

44. (1) Providers shall re-apply for provider or programme accreditation when the period of validity of such accreditation status lapses in accordance with these regulations.

(2) Where provider or programme accreditation of a provider is revoked, the provider may re-apply for accreditation at any time.

(3) Where a provider seeks to change or extend its provider or programme accreditation status, the provider shall apply for accreditation for the purpose of such required change or extension.

Information to be provided on application for accreditation.

45. The Authority shall make and publish guidelines to establish such information to be supplied by providers for the purpose of an application for provider or programme accreditation under these regulations:

Provided that, by means of such guidelines, the Authority may establish different information requirements for the different categories of providers or programmes provided in the Second and Third Schedules.

Self-accrediting status.

46. (1) "Self-accrediting provider" status, as defined in the First Schedule, or extension of the scope of this type of accreditation, shall only be given by means of the Act or any regulation made thereunder, or by any other law.

(2) An application for self-accrediting status as defined in the First Schedule, or for extension of the scope of this type of accreditation shall be subject to the following:

(*a*) only universities, higher education institutions and further education institutions accredited and licensed under these regulations shall be eligible to apply for self-accrediting status or extension of self-accrediting scope;

(*b*) universities or institutions applying for self-accrediting provider status or extension of the scope of this type of accreditation shall demonstrate a track record of accreditation and quality audits in at least two consecutive quality audits with respect to those types of programmes for which self-accrediting provider status is to apply:

Provided that, in exceptional circumstances, the Authority may recommend that a university or institution which has no track record of prior provision of further or higher education services in Malta, be granted self-accrediting provider status. In such case, the evaluation referred to in sub-regulation (3) shall be based on a detailed plan and the application shall be assessed on whether the plan and the human and financial resources allocated by the provider demonstrate a high probability that, on establishment, the university or institution shall operate at least at a comparable standard to existing universities or institutions with self-accrediting provider status.

(3) An application for self-accrediting status or extension of

self-accrediting scope shall be subject to an evaluation by a panel of external experts and such evaluation shall comply with the following:

(*a*) it may be limited to the broad fields of study and levels of the Malta Qualifications Framework for which the provider has a proven track record;

(*b*) it shall include consideration of any offshore activities of the university or institution applying for self-accrediting provider status or extension of the scope of this type of accreditation, which are required to meet relevant regulatory and reporting requirements in Malta;

(*c*) where the evaluation by the panel of external experts makes a proposal to the Authority for the granting of self-accrediting provider status or the extension of the scope of this type of accreditation, the report of the evaluation shall clearly state the reasons for this and shall recommend the broad fields of study and the Malta Qualifications Framework levels for which the provider has the capacity to be self-accrediting; and

(*d*) where the evaluation by the panel of external experts makes a proposal to the Authority against the granting of self-accrediting provider status or the extension of the scope of this type of accreditation, the report of the evaluation shall clearly state the reasons for this.

University status. *Amended by: L.N. 150 of 2015.*

47. (1) Only accredited higher education institutions which comply with the following shall be eligible to apply for university status in order to be eligible to obtain a licence of a university as defined in the Second Schedule:

(*a*) higher education, teaching, research and dissemination of knowledge are the primary activities of the higher education institution;

(*b*) the higher education institution has -

(i) academic staff; and

(ii) an academic library; and

(iii) stable research training or stable research and development activities of a high standard;

(*c*) the higher education institution has representative bodies of staff and students;

(*d*) the higher education institution has an organisation and infrastructure for providing higher education and undertaking research;

(*e*) the higher education institution provides programmes which lead to national qualifications classified at a combination of either Malta Qualifications Framework levels 5, 6, or 7, or foreign qualifications at a comparable level, in at least four fields, and also has independent competence in setting up the components of such programmes and an independent right to award

degrees with respect to such programmes;

(*f*) the higher education institution provides programmes which lead to national qualifications classified at Malta Qualifications Framework level 8, or a foreign qualification at a comparable level, and also has independent competence in setting up the components of such programmes and an independent right to award degrees with respect to such programmes; and

(*g*) the higher education institution is affiliated with international networks in connection with higher education and, or research and participates in national and international cooperation in teaching and, or research:

Provided that an accredited Higher Educational Institute shall be eligible to apply for University status if the Authority considers that such application is in the national interest and in fulfilment of national policies, on the basis of a different combination of higher education qualifications other than those indicated in paragraphs (*e*) and (*f*).

(2) An application for university status shall be subject to an evaluation by a panel of external experts and such evaluation shall comply with the following:

(*a*) it shall include consideration of any offshore activities of the applicant higher education institution which are required to meet relevant regulatory and reporting requirements in Malta; and

(*b*) where the evaluation by the expert panel makes a proposal to the Authority for or against the granting of university status, the report of the evaluation shall clearly state the reasons for this.

Recommendations by the Authority for self-accrediting status.

48. (1) Where the Authority considers that self-accrediting status is to be granted to a provider or that the scope of this type of accreditation is to be extended in accordance with regulation 46, it shall make a recommendation to the Minister to such effect, including therein any conditions that it may deem fit in accordance with the provisions of these regulations.

(2) Following a periodic provider quality audit of an institution with self-accrediting status, the Authority may make such recommendations to the Minister as it may deem necessary in relation to such institution.

(3) The Authority shall notify the Minister in writing of its recommendations under this regulation, and the Minister shall, further to such notification, take any necessary action as appropriate.

PART V

MISCELLANEOUS

Appeals. *Substituted by: L.N. 82 of 2024.*

49. A provider may appeal from any decision or action taken by the Authority in terms of these regulations to the Court of Appeal in its inferior jurisdiction within twenty (20) calendar days from the date the decision is communicated to the provider:

Provided that the said appeal shall not concern the merits of a decision taken by the Authority in terms of these regulations in relation to the granting or refusal of a licence or the accreditation, revocation or suspension thereof or the imposition of restrictions or conditions on licensees.

Power of the Authority to require information and to investigate.

50. (1) All licensees shall provide the Authority with such information relating to their branches, subsidiaries, agencies or offices in or outside Malta as the Authority may require by means of a notice in writing in the discharge of its duties under these regulations or any other law:

Provided that such information may include statements and declarations by the licensee and any other official or unofficial documentation.

(2) All information required under sub-regulation (1) shall be submitted in such form and at such periods of time as the Authority may from time to time prescribe by means of guidelines issued by the Authority for such purpose under these regulations.

(3) All information provided by any licensee under sub-regulation (1) shall be regarded as secret and confidential between the licensee and the Authority:

Provided that the Authority shall provide such information to the Minister as may be required by him upon a request in writing and the Authority shall inform the Minister if it deems that there is any matter of concern regarding the state of affairs of a licensee:

Provided further that the Authority may take copies of any documents provided to it by any licensee under this regulation.

(4) The Authority may, by means of a notice in writing, require a licensee, persons occupying a headship position, members of the body corporate, as the case may be, or any of the licensee's officers to attend before it or before an officer appointed by it at such time and place as it may specify in the notice, to answer questions and provide information as it may reasonably require for the performance of its functions under these regulations:

Provided that where the Authority appoints an officer as provided under this sub-regulation, such officer shall, for the purposes of carrying out his functions under such appointment, have all the powers conferred on the Authority by this regulation and any requirement made by him shall be deemed to have the same force and effect as a requirement made by the Authority:

Provided further that the Authority may require an officer it has appointed under this sub-regulation to submit a report in such form as it may specify.

(5) Where the person required to provide information under this regulation does not have access to such information, such person shall disclose to the Authority where, to the best of his knowledge, that information or documentation can be found and the Authority may require any person who appears to be in possession of that information or documentation to provide it.

(6) Any information provided under this regulation may be used as evidence against the person providing such information as well as against any person or licensee to whom such information relates.

(7) The Authority may, where it deems fit, and by notice in writing to the licensee, appoint an officer or officers to investigate and report on the affairs of a licensee. Such officer shall have all the powers conferred on the Authority by this regulation and any requirement made by him shall be deemed to be, and shall have the same force and effect as a requirement made by the Authority:

Provided that the Authority may require any officer appointed under this subregulation to submit interim and final reports on the conclusions of the investigation in such form as it may specify:

Provided further that where an investigation under this regulation finds the investigated licensee to be in default of its obligations under these regulations the Authority shall have the power to charge such licensee with any of the expenses related to such investigation.

(8) The Authority may also exercise its powers under this regulation as follows:

(*a*) in relation to a branch or subsidiary of the licensee;

(*b*) in relation to any person who has, at any relevant time, been in charge of the provider or any branch or subsidiary of the licensee; and

(*c*) where it has reasonable grounds for suspecting a person to be violating any provision of these regulations or any guidelines made by the Authority accordance with these regulations:

Provided that, without prejudice to the applicability of regulation 56, upon any violation of regulation 5(1), the provider responsible for such violation shall be allowed one year from the date on which such violation is notified to it in writing by the Authority to obtain a licence under these regulations. Upon the lapse of such period, the Authority shall have the power to order such individual or body corporate to suspend all activities related to the unlicensed provision of further or higher education for such period as the Authority sees fit in order for such provider to obtain a licence:

Provided further that any such action taken by the Authority under this sub-regulation shall have due regard for the interests of the students undertaking a programme with the respective provider, ensuring that solutions are found to ensure that

they are given the opportunity to complete any programme they had commenced.

Cooperation.

51. (1) Where a licensee has its head office in Malta and also provides further or higher education abroad, or where a licensee operates in partnership with a foreign provider, or operates as a branch, subsidiary or agent of a foreign provider, the Authority may, on the basis of international or reciprocity agreements, do the following:

(*a*) share its supervisory, accreditation and quality assurance duties with other foreign competent authorities;

(*b*) disclose information to foreign competent authorities, to the extent that the foreign authorities receiving the information restrict its use for supervisory, regulatory, accreditation and quality assurance purposes or for such other purposes as may be specifically agreed upon with the Authority; and

(*c*) authorise foreign competent authorities to carry out themselves, or through the intermediation of competent persons appointed by them, investigations for supervisory and regulatory purposes in branches, subsidiaries or offices of the licensee.

(2) In the pursuance of its duties the Authority shall at all times afford such cooperation to the Minister as may be required in the discharge of the Minister's duties.

Confidentiality.

52. (1) Nothing in these regulations shall authorise the Authority to inquire, or request the provider to inquire, into the affairs of any individual student, except for the purpose of ensuring compliance with any of the provisions of these regulations, as subject to the provisions of the Data Protection Act.

Cap. 586.

(2) Past and present officers of the Authority shall not disclose information obtained from licensees or providers in carrying out their duties under these regulations. Such persons are bound by the obligation of professional secrecy, except for the purpose of the exercise of their functions, or when lawfully required to do so by any court or under a provision of any law.

Further powers of the Authority. *Amended by: L.N. 150 of 2015.*

53. The Authority shall have the power to make and publish guidelines for the protection of the use of the terms "university", "higher education", "further education", "higher education institution", "further education institution" and "further education centre" in accordance with these regulations.

Transitory provision.

54. (1) Persons or bodies corporate providing further or higher education without a licence and providers operating under an existing licence on the date of entry into force of these regulations may continue to operate up to three years from the date of entry into force of these regulations, and shall, until such time, make an application to obtain a licence under these regulations. Failure to obtain such a licence by the end of the prescribed period shall constitute a violation of these regulations by the provider and

continued operation by the provider in Malta shall become subject to action by the Authority in accordance with these regulations.

(2) Pending applications for a licence for the purpose of provision of further or higher education in Malta shall cease to be valid from the date of entry into force of these regulations. In such case, the applicant provider shall make a new application in accordance with the provisions of these regulations.

FIRST SCHEDULE

Amended by: L.N. 150 of 2015.

[Regulations 8(6) and 46]

SELF-ACCREDITING PROVIDERS

1. A "self-accrediting provider" means a public or private university, higher education institution or further education institution established as a self-accrediting provider by the Act or by any regulation made thereunder, or by any other law, which by virtue of such status, has the capacity to self-accredit existing and new programmes and is exempt from provider and programme accreditation for the purposes of these regulations. Self-accrediting providers do not have the power to accredit other providers or their programmes.

2. A "Non self-accrediting provider" is a public or private provider which requires provider and programme accreditation from the Authority under these regulations in order to provide further or higher education in or from Malta.

3. By virtue of these regulations, the following are self-accrediting providers:

(*a*) the University of Malta, for programmes up to and including level 8 of the Malta Qualifications Framework;

(*b*) the Malta College of Arts, Science and Technology, only for programmes up to and including level 7 of the Malta Qualifications Framework; and

(*c*) the Institution of Tourism Studies, only for programmes up to and including level 5 of the Malta Qualifications Framework.

SECOND SCHEDULE

Amended by: L.N. 150 of 2015.

[Regulation 9(1)]

CATEGORIES OF PROVIDERS' LICENCES

Category 1: "University"

A licence to operate as a 'university' permits a provider established as a 'University' under the Act or by a regulation made thereunder, or by any other law, as well as providers which are not so established, to provide accredited 'higher education programmes', as defined in the Third Schedule, including those self-awarded or otherwise.

For eligibility for a licence as university, a provider must be a body corporate and a self-awarding provider of higher education programmes.

Category 2: "Higher education institution"

A licence to operate as a "higher education institution" permits a provider to provide accredited "higher education programmes", as defined in the Third Schedule, whether self-awarded or otherwise. This licence includes higher education institutions established by the Act or by a regulation made thereunder or by any other law. It also includes providers which are not so established.

For eligibility for a licence as a "higher education institution", a provider shall be a body corporate.

A licence to operate as a "higher education institution" does not authorise a provider to provide "further education programmes" as defined in the Third Schedule.

Category 3: "Further education institution"

A licence to operate as a "further education institution" permits a provider to provide accredited "further education programmes" as defined in the Third Schedule, whether self-awarded or otherwise. This licence includes further education institutions established by the Act or by a regulation made thereunder or by any other law. It also includes providers which are not so established.

For eligibility for a licence as a "further education institution", a provider shall be a body corporate.

A licence to operate as a "further education institution" does not authorise a provider to provide "higher education programmes" as defined in the Third Schedule.

Category 4: "Further education centre"

A licence to operate as a "further education centre" permits a provider to provide accredited "further education programmes" as defined in the Third Schedule, which are non-self-awarded.

For eligibility for a licence as "further education centre", the provider shall be an individual and shall not be a body corporate.

A licence to operate as a "further education centre" does not authorise a provider to provide self-awarded "further education programmes" or "higher education programmes" as defined in the Third Schedule.

Category 5: "Tuition Centre"

A licence to operate as a "Tuition Centre" permits a provider to provide, as its main mission, courses not part of compulsory schooling in accordance with the licence.

A licence to operate as a "Tuition Centre" does not authorise a provider to provide any of the courses or programmes listed in the Third Schedule, but only those listed in the licence itself.

THIRD SCHEDULE

Substituted by: L.N. 150 of 2015.

[Regulation 43]

CATEGORIES OF PROGRAMME ACCREDITATION

"Further education course/programme"

A full academic, vocational or professional course or programme which is of non-compulsory formal education and is accredited by the Authority under these regulations as one which leads to a national qualification classified up to and including Malta Qualifications Framework Level 4 or a foreign qualification at a comparable level. Such programme would satisfy the minimum workload requirements set by the Authority in accordance with its functions as set out in the Malta Qualifications Framework for Lifelong Learning Regulations (S.L.327.431).

"Further education module"

Part of a "further education programme" offered by a provider, accredited by the Authority under these regulations, as a module and which serves to obtain, only in part, a national qualification classified up to and including Malta Qualifications Framework Level 4 or a foreign qualification at a comparable level.

"Higher education course / programme"

A full academic, vocational or professional course or programme which is of non-compulsory formal education, training or research and is accredited by the Authority under these regulations as one which leads to a national qualification with the title of Degree, Certificate, Diploma or other similar title at Malta Qualifications Framework Level 5 or higher or a foreign qualification of a similar title at a comparable level. Such programme would satisfy the minimum workload requirements set by the Authority in accordance with its functions as set out in the Malta Qualifications Framework for Lifelong Learning Regulations (S.L.327.431).

"Higher education module"

Part of a "higher education programme" offered by a provider, accredited by the Authority under these regulations, as a module and which serves to obtain, only in part, a national qualification at Malta Qualifications Framework Level 5 or higher or a foreign qualification at a comparable level.

"Approved foreign further education programme"

An academic, vocational or professional programme of non-compulsory formal education which is accredited by a recognised foreign accreditation agency and leads to an award awarded by a foreign provider and a foreign qualification classified as comparable to a level up to and including Malta Qualifications Framework Level 4. This programme does not lead to a national qualification.

"Approved foreign higher education programme"

An academic, vocational or professional programme of non-compulsory formal education, training or research which is accredited by a recognised foreign accreditation agency and leads to an award awarded by a foreign higher education provider and a foreign qualification classified at a level comparable to Malta Qualifications Framework Level 5 or higher. This programme does not lead to a national qualification.