

L.N. 150 of 2015**EDUCATION ACT
(CAP. 327)****Further and Higher Education (Licensing, Accreditation and
Quality Assurance) (Amendment) Regulations, 2015**

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

Citation.

1. The title of these regulations is the Further and Higher Education (Licensing, Accreditation and Quality Assurance) (Amendment) Regulations, 2015, and these regulations shall be read and construed as one with the Further and Higher Education (Licensing, Accreditation and Quality Assurance) Regulations, hereinafter referred to as "the principal regulations".

S.L. 327.433

Amends
regulation 5 of
the principal
regulations.

2. Regulation 5 of the principal regulations shall be amended as follows:

(a) sub-regulation (6) thereof shall be substituted by the following:

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

(b) immediately after sub-regulation (6) thereof, there shall be added the following new sub-regulations:

"(7) Whenever the Commission has imposed an administrative fine in accordance with these regulations, the Commission 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 Commission 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."

3. Immediately after regulation 5 of the principal regulations there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Imposition of administrative penalty.

5A. (1) The Commission 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 Commission 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 Commission;

(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 Commission 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 Commission and to propose any remedies that rectify the acts or omissions required by the Commission to be so rectified.

(2) In the judicial letter mentioned in sub-regulation (1) the Commission 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 Commission in accordance with the first proviso to sub-regulation (1), and agrees in writing to abide with any conditions that the Commission may impose, the Commission 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 Commission in accordance with the first proviso to sub-regulation (1) or fails to abide with any conditions agreed to in writing, the Commission 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 Commission considers that the person concerned has not given any valid reasons to demonstrate why no administrative penalty should be imposed against such person, the Commission shall proceed to impose such administrative penalty.

(5) Notwithstanding any other provision of this regulation, where the Commission 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 Commission 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 Commission shall give its reasons for any decision taken under sub-regulation (5).

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

4. Regulation 8 of the principal regulations shall be amended as follows:

Amends regulation 8 of the principal regulations.

(a) in sub-regulation (3) thereof, for the words "and programme accreditation under these regulations." there shall be substituted the words "and programme accreditation under these regulations:", and immediately thereafter there shall be added the following new proviso:

"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."; and

(b) in sub-regulation (5) thereof, for the words "as defined in the Third Schedule:" there shall be substituted the words "as defined in the Third Schedule.", and the proviso thereto shall be deleted.

5. Regulation 9 of the principal regulations shall be amended as follows:

Amends regulation 9 of the principal regulations.

(a) paragraph (e) of sub-regulation (1) thereof shall be substituted by the following:

"(e) Tuition Centre:";

(b) in the proviso to sub-regulation (1) thereof, for the words "in the category referred to in paragraph (d)." there shall be substituted the words "in the category referred to in paragraph (d):", and immediately thereafter there shall be added the following new proviso:

"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.";

(c) sub-regulation (2) thereof shall be substituted by the following:

"(2) The licence issued by the Commission 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.";

(d) in paragraph (e) of sub-regulation (5) thereof, for the words "the further or higher education programmes" there shall be substituted the words "any further or higher education programmes";

(e) paragraph (f) of sub-regulation (5) thereof shall be re-numbered as paragraph (g); and

(f) immediately after paragraph (e) of sub-regulation (5) thereof there shall be added the following new paragraph:

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

Amends
regulation 30 of
the principal
regulations.

6. Regulation 30 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words " "English as a foreign language teaching centre" ", there shall be substituted the words " "Tuition Centre" ";

(b) in paragraph (b) of sub-regulation (1) thereof, for the words " "masters" or "higher" ", there shall be substituted the words " "masters", "master" or "higher" "; and

(c) in sub-regulation (2) thereof, for the words " "further education centre", as defined in the Second Schedule", there shall be substituted the words " "further education centre" or "tuition centre", as defined in the Second Schedule".

Amends
regulation 36 of
the principal
regulations.

7. In the proviso to sub-regulation (2) of regulation 36 of the principal regulations, for the words "and the National Minimum Conditions for all Schools Regulations." there shall be substituted the words "and the National Minimum Conditions for all Schools Regulations:", and immediately thereafter there shall be added the following new proviso:

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

8. Sub-regulation (1) of regulation 37 of the principal regulations shall be amended as follows:

Amends regulation 37 of the principal regulations.

(a) in paragraph (c) thereof, for the words "and programme quality audits conducted" there shall be substituted the words "and programme quality audits for licences granted under regulation 9(1)(a) to (d) conducted"; and

(b) immediately after paragraph (c) thereof there shall be added the following new paragraph:

"(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."

9. Sub-regulation (1) of regulation 47 of the principal regulations shall be amended as follows:

Amends regulation 47 of the principal regulations.

(a) paragraph (b) thereof shall be substituted by the following:

"(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;"

(b) paragraph (e) thereof shall be substituted by the following:

"(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;"

(c) in paragraph (f) thereof, the words "in at least four fields" shall be deleted;

(d) paragraph (g) thereof shall be substituted by the following:

"(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."; and

(e) immediately after paragraph (g), as substituted, thereof, there shall be added the following new proviso:

"Provided that an accredited Higher Educational Institute shall be eligible to apply for University status if the Commission 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).".

Amends regulation 53 of the principal regulations.

10. In regulation 53 of the principal regulations, for the words "further education institution", "further education centre", and "English as a foreign language teaching centre" in accordance with these regulations.", there shall be substituted the words "further education institution" and "further education centre" in accordance with these regulations.".

Amends the First Schedule to the principal regulations.

11. In paragraph 3(b) of the First Schedule to the principal regulations, for the words "up to and including level 6" there shall be substituted the words "up to and including level 7".

Amends the Second Schedule to the principal regulations.

12. Category 5 in the Second Schedule to the principal regulations shall be substituted by the following:

"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.".

13. The Third Schedule to the principal regulations shall be substituted by the following:

Substitutes the Third Schedule to the principal regulations.

"THIRD SCHEDULE

[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 Commission 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 Commission 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 Commission 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 Commission 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 Commission 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 Commission 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."

