

## **Part I**

### ***Establishment of a Higher Education Institution***

#### ***Application to Establish and Operate a Higher Education Institution***

1. (1) Anyone that intends to establish and maintain a higher education institution must apply to the Council in terms of these regulations.
- (2) For establishment, an applicant must –
  - (a) submit the application in full, at least twelve months before the institution is to start operating, in the form determined in Schedule 1 of these regulations; and
  - (b) send with the application the full fee as prescribed in Schedule 5 of these regulations.
- (3) If an applicant does not comply with sub-regulations 2(a) and (b), the Executive Secretary must decline to process the application.
- (4) The Executive Secretary may require an applicant to clarify items in the application or submit additional information before the application is processed.

#### ***Requirements for Establishing and Operating a Higher Education Institution***

2. The provisions for the establishment of a Higher Education Institution or a qualification awarding institution shall be governed by the following conditions and criteria –
  - (a) ***Institutional and Academic***
    - (i) The site selected for the institution must be suitable from an academic point of view. Sustainable physical viability e.g. availability of water, electricity, furniture must be ensured; The site should be conducive for learners with physical disabilities and should support physical and general welfare of students;
    - (ii) A prospective Higher Education Institution should display capacity to mobilise physical, human and financial resources to establish a viable institution;
    - (iii) In the case of a university, the prospective provider shall have to make available at least 10 hectares of land. Virtual universities, however, shall be excluded from the condition of land. For small training institutions, Consultancies, and those located in Cities, the Council shall make its discretion, following assessment on a case by case basis;
    - (iv) A prospective Higher education institution should ensure that provision has been made or will be made for library, laboratory facilities and other facilities required for efficient delivery of programmes;

- (v) The Institution should frame proper rules regarding the efficiency and discipline of its staff and other employees;
  - (vi) The Institution shall ensure that an appropriate regulatory framework and mechanism is provided for regulating academic and administrative matters of the institution;
  - (vii) The Institution shall provide the Executive Secretary with the organisational structure of the Institution. In drawing up the organizational structure of the institution (into faculties, departments etc.), the standard and quality of teaching and efficiency of the system must be ensured;
  - (viii) The Institution shall maintain the necessary academic and support staff with appropriate academic or professional qualifications and experience to achieve the objectives of each programme;
- (b) *Financial***
- (i) The financial resources of the institution should be sufficient to enable it to make due provision for its continued maintenance and efficient working;
  - (ii) The Institution shall furnish such reports, returns and other relevant information as the Council may require, to enable it to judge the financial sustainability and soundness of the Institution;
  - (iii) Subject to the satisfaction of the Council, the institution shall be deemed financially stable and able to sustain regular functioning of the Institution on a long-term basis;
- (c) *Constitutional and Cultural***
- (i) A Higher Education Institution shall have to work within the framework of the Education Sector Policy and other laws or policies framed/amended by the Government of Swaziland;
  - (ii) The Institution must restrict itself to teaching, research and co-curricular activities. Activities detrimental to national, religious, social or local culture shall not be undertaken.

### ***Application to Offer Foreign or Franchise Qualifications***

3. In the application contemplated in regulation 3, an applicant intending to offer foreign or franchise qualification must submit proof that –

- (a) Its parent institution operates lawfully as a training institution and is accredited by the appropriate accrediting body in its country of origin;
- (b) A qualification awarded in its name will be fully recognised by its parent institution and by the appropriate state authorities in its country of origin; and

- (c) A student who is awarded its qualification will suffer no disadvantage if he or she applies to enrol for an appropriate advanced qualification in the parent institution.

#### ***Withdrawal of an Application***

4. (1) An application made in terms of regulation 4, may be withdrawn by notice in writing to the Executive Secretary, but, no notice of withdrawal is valid if it is submitted after the Executive Secretary has notified the applicant in writing of the result of the application.

(2) On receipt of a valid notice of withdrawal, the Executive Secretary must forthwith return the application documents to the applicant.

#### ***Issuance of the Provisional Authority to Establish and Operate an Institution***

5. Where the Council is satisfied with the requirements as provided for in regulation 5, the Council may issue a provisional authority to establish and operate a Higher education Institution.

#### ***Use of the Institution's Name***

9. If the Council grants the provisional authority, the institution must be established under the name registered with the Council.

#### ***Cancellation of Provisional Authority***

10. (1) The Executive Secretary shall cancel the registration or provisional registration of an institution if –

- (a) The institution ceases to –
  - (i) provide higher education as contemplated in the Act;
  - (ii) fulfil the requirements for establishment contemplated in regulation 5
  - (iii) operate or terminates all its programmes.
- (b) The institution provides fraudulent, false or misleading information.

#### ***Certificate of Establishment and Operation***

11. (1) The Certificate of Establishment and Operation shall include the following-
- (a) the registered name of the institution

- (b) programmes to be offered/scope of operation;
- (c) the respective sites at which registered programmes are to be offered;
- (d) the date by which all the requirements for registration must be met, if the institution is provisionally registered; and
- (e) the Executive Secretary's name, signature and date of signature.

### ***Display of Establishment Status***

12. An institution must display its Establishment Certificate in a prominent place accessible to the public and to all students.

### ***Approved Programmes***

13. (1) An institution must offer only such programmes as are approved by the Council and included in the Establishment certificate and offer certificates bearing the official name of the institution. For franchise institutions, the certificate should bear the name of the mother institution as well as the franchisee.

(2) An institution must ensure that any approved programme is continued long enough to enable any cohort of students to complete the full programme, but if unavoidable circumstances prevent this –

- (a) the Executive Secretary must be informed without delay; and
- (b) the institution must make reasonable arrangements to enable the affected students to complete the programme at a comparable public or private institution.

### ***Academic records***

14 (1) An institution must keep a comprehensive record of the academic achievement of each student enrolled in an approved programme.

(2) An institution must submit such information as the Executive Secretary may reasonably require for the purpose of monitoring compliance with the Act and maintaining the higher education information management system.

### ***Annual fees***

15. All established institutions shall pay an annual subscription fee as prescribed by the Council.

### *Appeal*

16. An Institution which appeals against a decision of the Council must lodge the appeal in writing with the Minister within 15 days of the date of the Council's decision.