

PART II

Registration of Higher Education Institutions

Application to Register a Higher Education Institution

17. (1) Every Higher Education Institution already operating in Swaziland shall within six months of the commencement of the Higher Education Act apply to the Executive Secretary for registration.

(2) Every Higher Education Institution operating under a letter of provisional authority and that has procured resources to the satisfaction of the Council shall apply for registration

Requirements for Registration

18. (1) An applicant who submits an application in terms of sub regulation 17 shall be required to –

- (a) submit the application in full, in the form prescribed in Schedule 2(a) of these regulations.
- (b) Send the application with the registration fee determined in Schedule 5 of these regulations; and
- (c) submit a signed declaration as prescribed in schedule 2(e) by the applicant indicating that if registered the institution –
 - (i) shall not discriminate on the basis of race, colour, creed, gender or marital status with regard to the admission of students;
 - (ii) shall not discriminate on the basis of race and colour with regard to the recruitment of staff;
 - (iii) will maintain the necessary academic and support staff with appropriate academic or professional qualifications and experience to achieve the objectives of each programme;
 - (iv) will maintain a quality management system including assessment policies and procedures appropriate to each programme;
 - (v) will maintain sufficient space, equipment and instructional material to provide education and training of sufficient standard to achieve the objectives of each programme;
 - (vi) will not exceed the enrolment that the facilities and equipment can reasonably accommodate;

- (vii) will maintain full records of each student's admission, academic progress and assessment of learning in respect of each programme;
 - (viii) will comply with a periodic monitoring and evaluation of the institution by the Council at intervals to be determined by the Council; and
 - (ix) will comply with any other reasonable process arranged by the Council after consultation with the institution for the purpose of monitoring and compliance with the requirements of the Act and the conditions of registration imposed under Part IV of the Act;
- (d) written evidence by the applicant that it complies with all legal requirements relating to the health and safety of persons on the premises; and
- (e) written proof by the applicant that the institution -
- (i) enjoys an income that is sufficient to sustain its programmes in an acceptable manner;
 - (ii) has a stable financial position that enables the institution maintain operational continuity; and
 - (iii) has established financial surety or guarantees to ensure that the institution meets its obligations to its enrolled students.

(2) If an applicant does not comply with Sub-regulation 18(1), the Council shall decline to process the application.

(3) The Council may require an applicant to clarify items in the application or to submit additional information before the application is determined.

(4) An applicant must promptly notify the Council if there is any change in the information submitted in the application.

Time Frame for the Registration Process

19. The Council will process applications for registration within a period of not less than 6 months.

Application for Amendment of Registration

20. An institution contemplated in Sections 38 and 39 of the Act must apply to the Council in the following manner –

- (a) In the case of an amendment to any of the conditions of registration, in the form prescribed in Schedule 2(b);

- (b) In the case of an amendment to its registration if it proposes to deviate from the terms and conditions under which the institution was initially registered, in the form prescribed in Schedule 2(c);
- (c) In the case of an amendment to its registration if the ownership of the institution is to be transferred, in the form prescribed in Schedule 2(d);
- (d) The Council may require an applicant to clarify items in the application or to submit additional information before the application is determined; and
- (e) An applicant must promptly notify the Council if there is any change in the information submitted in the application.

Withdrawal of an Application

22. (1) Before the Council has notified an applicant in writing of the result of an application, an applicant may withdraw by notice in writing to the Council the application made under the relevant regulation.

(2) On receipt of a notice of withdrawal contemplated in terms of these regulations, the Council shall forthwith return the application and other documents to the applicant.

Re- Application for Registration

23. An applicant who has withdrawn an application in terms of these regulations, or whose application has been denied, may submit a subsequent application to the Council as soon as the applicant is able to comply with the requirements of these regulations.

Verification of Information

24. (1) The Executive Secretary's office of the Council shall undertake a preliminary review of the application to determine if it conforms to all the requirements of the regulations.

(2) The applicant may be required to clarify aspects of the application or supply additional information.

(3) The Council shall ensure the verification of all the information supplied by the applicant to its satisfaction.

Council Decision

25. (1) After considering the material presented, the Council may approve the application and the applicant will operate and be subject to a review within 5 years.

(2) The Council may refuse approval of the application for registration in which case the reasons for such a decision will be communicated to the applicant.

(3) The applicant will be notified in writing of the outcome of the application process.

(4) The approval will indicate if an institution has been approved as an ordinary university or a specialised university or a college.

(5) The Council shall publish in the Gazette and in newspapers circulating in Swaziland, a list of all registered higher education institutions that have complied with the requirements for registration

(6) Any higher education institution which is not included in the list of such publication shall not be allowed to continue with its operations with effect from the date of such publication nor will it be allowed to perform functions similar to or the same as those normally carried out by a higher education institution.

(7) A higher education institution which has supplied, to the satisfaction of the Council, the required particulars, will be included in the registration register maintained by the Council.

Registration, Closure and De-registration of a Higher Education Institution

26. If at the end of two years from the provisional registration of a higher education institution, and after an inspection has been conducted at the higher education institution, the Council is satisfied that the higher education institution has fully complied with the terms and conditions imposed, it shall cause the higher education institution to be registered and issue a certificate of registration.

27. (1) If at the end of two years from the provisional registration of a higher education institution, and an inspection has been conducted at the higher education institution, the Council –

- (i) is satisfied that the higher education institution has failed to comply with the terms and conditions imposed when it was provisionally registered; or
- (ii) that the higher education institution is conducted in a way which is prejudicial to the welfare of the students of the higher education institution;

the Council may by notice in writing, inform the owner of the higher education institution accordingly and direct the owner to remedy the defects within such period not exceeding three (3) months, as may be specified in the notice.

(2) If the owner of the higher education institution fails to remedy the defects within the period specified in the notice, the Council shall, after securing a court order, order the owner or the manager of the higher education Institution to close the higher education institution and not enrol new learners.

(3) A higher Education Institution which has been ordered to close and has remained closed for a period of six (6) months or more shall be removed from the register, after the owner has been notified in writing.

(4) An institution which has ceased to operate, shall thereupon inform its students and make the necessary arrangements to safeguard their interests 21 days prior to the closure or deregistration of the institution.

(5) The institution which has ceased to operate shall issue to each enrolled student a copy of his/her transcript as contemplated in these regulations.

(6) The institution which has ceased to operate shall refund, from the institution's funds, any enrolled student who has a lawful claim as a consequence of the institution's ceasing to operate.

Duration of Registration

28. (1) Registered higher education institutions shall remain registered for a period of 5 years, thereafter, they shall be subject to evaluation to ascertain if they are maintaining the required status.

(2) Applicants shall, within 6 months prior to the lapse of registration, apply for an evaluation.

Registration Fees

28. (1) Registration fees will be differentiated according to the size of institution as prescribed in Schedule 5 of these regulations.

(2) Registration fees are non-refundable.

Revocation of Registration

29. The registered institution issued with a certificate of registration bearing the seal of the Council, will have the authority to operate as a registered institution until such time the institution is suspended for such period as Council may consider appropriate or the authority is revoked.

Offences and Penalties

30. (1) An applicant in the process of seeking approval must refrain from making any public statements or advertisements implying that the applicant is approved or registered.

(2) It is an offence to advertise as a higher education institution offering a higher education qualification before approval is formally granted through one of the set processes in these Regulations.