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- Please submit your notice **ONLY ONCE**.
- Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.

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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

NO. R. 383

31 MARCH 2016

HIGHER EDUCATION ACT, 1997 (ACT No.101 OF 1997)**REGULATIONS FOR THE REGISTRATION OF PRIVATE HIGHER
EDUCATION INSTITUTIONS, 2016**

I, Bonginkosi Emmanuel Nzimande, MP, Minister of Higher Education and Training, after consultation with the Council on Higher Education, in terms of section 53(1)(c) read with section 69 of the Higher Education Act, 1997 (Act No. 101 of 1997), have repealed the Regulations for the Registration of Private Higher Education Institutions, as published in Government Notice R1564 in Government Gazette 24143 of 13 December 2002, and herewith publish the new Regulations as set out in the Schedule hereto.



Dr BE Nzimande, MP
Minister of Higher Education and Training

Date: 24/03/2016

SCHEDULE**REGULATIONS FOR THE REGISTRATION OF PRIVATE HIGHER
EDUCATION INSTITUTIONS****ARRANGEMENT OF REGULATIONS**

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CHAPTER 1**DEFINITIONS****1. Definitions**

In these regulations any word or expression to which a meaning has been assigned in the Higher Education Act, 1997 (Act No. 101 of 1997) has the same meaning and, unless the context otherwise indicates-

'accreditation' means accreditation as determined by the HEQC;

'amendment' means an alteration in the conditions of registration or provisional registration of an institution in terms of section 61 of the Act;

'application for amendment' means an application made in terms of section 58 of the Act;

'application for conversion' means an application to convert provisional registration as contemplated in regulation 5;

'approved programme' means a programme that complies with the requirements of the Act and which is approved by the registrar in terms of the regulations;

'condition' means a stipulation or directive imposed by the registrar on an institution in terms of section 60 of the Act;

'foreign applicant' means an applicant who is a foreign juristic person as defined in the Act;

'HEQC' means the Higher Education Quality Committee of the Council on Higher Education;

'institution' means a private higher education institution that is registered or provisionally registered in terms of the Act;

'joint use' means the sharing, hiring or use of another facility not under the administration and control of the hiring institution for the provision of higher education as defined in section 1 of the Act;

'NQF' means the National Qualifications Framework as contemplated in the National Qualifications Act Framework Act, 2008 (Act No. 67 of 2008);

'parent institution' means a foreign higher education institution to which a foreign applicant is legally, commercially or academically subordinate or on which it is otherwise dependant;

'partnership' means an agreement between two or more parties on the provision of higher education as defined in section 1 of the Act;

'programme' means the purposeful and structured set of learning experiences that leads to a qualification as defined in the Higher Education Qualifications Sub-Framework (HEQSF) published under Government Notice No.36721 of 2 August 2013;

'qualification' means the formal recognition and certification of learning achievement awarded by a registered institution as defined in the HEQSF;

'registered programme' means a programme approved by the registrar in terms of regulation 14(4) and (5) and included in a registration certificate in terms of regulation 20;

'registration' means the granting of an application to operate as a private higher education institution in terms of the Act, offering such programmes leading to registered qualifications on such sites as the registrar may approve in terms of these regulations;

'requirements' means the prescribed criteria contemplated in chapter 3 of these regulations or any other criteria prescribed in the Act that an applicant or institution must fulfil in order to be registered or maintain registration;

'site' means any physical space such as a campus, satellite campus, tuition or learning centre controlled and administered by an applicant or an institution;

'the Act' means the Higher Education Act, 1997 (Act No. 101 of 1997) and any regulations or policy determined in terms of or under the Act;

'tuition' means teaching and learning support.

CHAPTER 2

APPLICATION PROCESS

2. Eligibility

(1) A person proposing to provide higher education as contemplated in the Act is eligible to apply for registration if-

- (a) registered as a juristic person in terms of the Companies Act, 2008 (Act No. 71 of 2008); and
- (b) person complies with section 51(2) of the Act.

(2) A person who purports to operate a higher education institution without being registered in terms of the Act is guilty of an offence in terms of section 66 of the Act, and is not eligible to apply for registration except in terms of regulation 6(4).

(3) If an applicant does not meet the eligibility requirements referred to in sub-regulation (1), the registrar must inform the applicant in writing within 14 working days after receipt of the application and return the documents submitted by the applicant.

3. Application for registration

(1) Anyone that intends to establish and maintain a private higher education institution must apply to the registrar in terms of the Act and these regulations.

(2) Sub-regulation (1) also applies to a juristic person established through a merger between institutions, with a resultant loss of the juristic personality of the old institutions and the creation of a new juristic person.

(3) An applicant for registration must-

(a) submit the application for registration in full at least eighteen months before the institution is to start operating in the manner determined by the registrar in the *Government Gazette*; and

(b) send with the application the full fee determined by the registrar by notice in the *Government Gazette*.

(4) If an applicant does not comply with sub-regulation (3)(a) and (b) the registrar must decline to process the application and return it.

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

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

3A Functions of the Department of Higher Education and Training (DHET)

(1) According to section 50(1) of the Act, the Director-General of the Department of Higher Education and Training is the registrar and has the following functions with respect to an application;

- (a) receipt of an application accompanied by the prescribed fee as contemplated in section 52 of the Act;
- (b) determination of an application for registration in accordance with section 54 of the Act; and
- (c) registration of an applicant as a private higher education institution in accordance with section 53 of the Act.

3B Functions of the Higher Education Quality Committee (HEQC) of the Council on Higher Education (CHE).

In terms of section 5(1)(c)(iii) of the Act, read in conjunction with section 25 of the NQF Act, the HEQC of the CHE, the Quality Council, is responsible for the accreditation of higher education programmes, applicants for registration must therefore-

- (a) submit an application for the accreditation of its higher education programmes to the HEQC; and
- (b) submit to the registrar the official accreditation report issued by the HEQC with respect to the outcome of its application.

3C Functions of the South African Qualifications Authority (SAQA)

According to section 13(1)(h)(ii) of the NQF Act, SAQA is responsible for registering higher education qualifications on the NQF, applicants for registration must therefore submit to the registrar the official report issued by SAQA as proof that their programmes are registered on the NQF.

4. Application for amendment

(1) Regulation 3 applies to the submission of an amendment application, except that it must be submitted at least twelve months before the proposed amendment is intended to come into effect.

(2) The registrar may for good reason permit a later submission if requested in writing by the applicant.

5. Withdrawal of application

(1) An application made in terms of regulation 3 may be withdrawn by notice in writing to the registrar, but no notice of withdrawal

is valid if it is submitted after the registrar has notified the applicant in writing of the result of the application.

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

6. Subsequent application for registration

(1) An applicant that has withdrawn an application in terms of regulation 5(1) may submit a subsequent application to the registrar not less than 12 months after the date of withdrawal.

(2) An applicant whose-

(a) application has been denied other than in terms of regulation 14(4)(d); or

(b) provisional registration has lapsed; or

(c) registration has been cancelled,

may submit a subsequent application not less than 36 months after the date of denial, lapsing or cancellation respectively, unless determined otherwise by the registrar.

(3) A person whose application has been denied in terms of regulation 14(4)(d) may submit a subsequent application not less than 60 months after the notification of such denial of registration has been issued by the registrar.

(4) Despite (2) a person who has been found guilty of an offence in terms of section 66 of the Act may submit a subsequent application not less than 60 months after paying the fine or serving the term of imprisonment as the case may be.

(5) Regulation 3 applies to the submission of a subsequent application.

CHAPTER 3

REQUIREMENTS FOR REGISTRATION

7. Compliance with the Act

In order to be registered an applicant must fulfil the requirements of the Act.

8. Name of applicant

An applicant must apply for registration in the same name under which it is incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008).

9. Prohibition of discrimination

An application must include a signed declaration by the applicant that the institution, if registered, will not discriminate on the basis of race and that it will comply with the provisions of section 9(4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

10. Programmes and qualifications

An applicant must propose to offer only programmes leading to qualifications that are registered on the NQF.

11. Compliance with the Occupational Health and Safety Regulations

(1) In the application contemplated in Chapters 3, 4 and 5, an applicant must submit a certified copy of a compliance certificate issued by a legally competent health and safety professional or organisation accredited in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993).

(2) The compliance certificate referred to in sub-regulation (1) must confirm that the premises identified in the application for registration complies with all the relevant health and safety regulations and is safe for the use of all persons should the applicant be granted registration.

12. Finance

(1) In the application contemplated in regulations 3, 4 and 5, an applicant must submit evidence of its financial viability in the form of-

(a) an original or certified copy of its most recent audited annual financial statements audited by an independent auditor registered with the Independent Regulatory Board for Auditors (IRBA);

(b) an original or certified copy of a three-year financial forecast audited by an independent auditor registered with IRBA if the applicant has not previously operated in any form whatsoever; and

(c) proof that it has established a financial surety or guarantee to ensure that it meets its obligations to the number of students it has projected to enrol.

(2) The financial surety or guarantee referred to in sub-regulation 12(1)(c) must be obtained from a financial services institution that is registered in terms of the Banks Act, 1990 (Act No 94 of 1990) or an institution that is registered in terms of the Short-term Insurance Act, 1998 (Act No 53 of 1998) and must indicate the following:-

- a) the official letterhead of the bank or insurance company ("the Surety");
- b) the official name of the applicant ("identity of the Principal Debtor");
- c) the students as beneficiaries ("identity of Creditor");
- d) the main responsibility of the Principal Debtor to the Creditor ("the Principal Obligation");
- e) the amount of money covering the reimbursement of students based on projected income from student fees;
- f) the terms and conditions of the agreement;
- g) a signature of a representative of the applicant;
- h) a signature of a representative of the bank or insurance company; and
- i) the signatures of at least two witnesses.

(3) The registrar may request any additional relevant financial information.

13. Foreign applicants

In the application contemplated in regulation 3, 4 and 5, a foreign applicant must submit proof that-

- (a) its parent institution operates lawfully as a higher education 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.

- (d) it is legally registered as a company in South Africa as contemplated in regulation 2(1)(a);

CHAPTER 4

REGISTRATION

14. Determination of an application

(1) The registrar must consider and determine an application for registration-

- (a) in accordance with section 54 of the Act and these regulations;
- (b) at least six months before the applicant intends to commence operations.

(2) In determining the application of a foreign applicant, the registrar must independently verify the information contemplated in regulation 13.

(3) In determining an application, the registrar must consider-

- (a) all the information and declarations provided by the applicant and any other relevant information;
- (b) the advice of the HEQC on the applicant's application for accreditation;
- (c) whether, if registered, the applicant in all its higher education programmes will maintain acceptable standards that are not inferior to standards at a comparable public higher education institution;
- (d) whether, if registered, the applicant in all its higher education programmes will comply with the requirements of the HEQC in terms of section 53(1)(b)(ii) of the Act;
- (e) whether the applicant has met all other relevant requirements of the Act;
- (f) a determination by the Minister relating to the scope and range of operations of institutions in terms of section 3(3) of the Act;
- (g) the distinction between a foreign juristic person and a local juristic person in terms of section 54(1)(b) of the Act;
- (h) the proposed programmes and qualifications and the respective sites where they are to be offered;
- (i) section 54(3) and (4) of the Act concerning provisional registration;

- (j) section 60 of the Act concerning conditions attached to registration or provisional registration;
 - (k) regulation 19 concerning the registration name;
 - (l) the rights of the general public, the students and the applicant; and
 - (m) the interests of the higher education system as a whole.
 - (n) any other requirement prescribed by the Minister in terms of section 53(1)(c) of the Act.
- (4) In light of sub-regulation (3) the registrar must determine whether to-
- (a) register the applicant in terms of section' 54(1)(c) and 54(2)(a) of the Act ;
 - (b) grant provisional registration in terms of sections 54(3) and (4) of the Act, stating the terms of provisional registration;
 - (i) the terms of provisional registration;
 - (ii) the date by which the registrar must receive an application for the conversion of provisional registration;
 - (c) impose conditions in terms of section 60 of the Act; or
 - (d) deny the application in terms of section 54(2)(b) of the Act.
- (5) In determining whether to grant registration or provisional registration as contemplated in sub-regulation (4) the registrar must approve the programmes to be offered by the institution and the respective sites where they are to be offered.
- (6) Despite sub-regulation (4), if an applicant is found to have knowingly submitted fraudulent, false or misleading information the registrar must deny the application and refer the matter to the South African Police Service for investigation.
- (7) A private higher education institution will be considered registered if it meets the relevant provisions of the Act and these Regulations.
- (8) Registration as contemplated in the Act and in these regulations, is not transferable from one institution to another.

15. Amendment of registration

- (1) The registrar must consider and determine an application for amendment in accordance with section 59 of the Act at least three months before the amendment is to come into effect.

- (2) The registrar must determine whether to-
 - (a) amend the registration or provisional registration; or
 - (b) impose a condition in terms of section 60 of the Act; or
 - (c) deny the application for amendment.
- (3) In the case of sub-regulation (2)(b) or (c), the- registrar must notify the institution in writing, giving reasons.
- (4) The registrar may amend an institution's registration in accordance with sections 60 or 61 of the Act.

16. Conversion of registration

Conversion of registration will be administered in accordance with section 54(6) of the Act and these regulations.

17. Cancellation of registration

- (1) Subject to sections 62 and 63 of the Act, the registrar must 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) meet the criteria of eligibility contemplated in regulation 2(1).
 - (iii) fulfil the requirements for registration contemplated in the Act and chapter 3 of these regulations;
 - (iv) comply with any condition imposed by the registrar in terms of section 60 or 61 of the Act; or
 - (v) operate or terminates all its programmes.
 - (vi) execute any of the responsibilities of an institution required in terms of chapter 6 of these regulations.
 - (b) the institution provides fraudulent, false or misleading information-
 - (i) to the registrar; or
 - (ii) in any of its public documents or advertising and marketing material;
 - (c) the institution is liquidated; or
 - (i) the company, in whose name the institution is registered as contemplated in chapter 2, is convicted of serious financial impropriety in a court of law;

(2) If the HEQC withdraws accreditation from one or more of an institution's programmes, the registrar must review the institution's registration- or provisional registration in terms of section 62(2) of the Act and determine whether reasonable grounds exist for cancellation.

(3) If the registrar proposes to cancel an institution's registration or provisional registration, the registrar must comply with section 63 of the Act.

(4) If the final determination is to cancel a registration or provisional registration, the Registrar must issue a notice in writing to the institution that its registration or provisional registration is cancelled and that the cancellation takes effect at the end of the academic year.

17A Lapsed or cancellation of registration

(1) An institution that has been notified by the registrar that its provisional registration has lapsed in terms of section 54(6)(b) of the Act or that its provisional registration or registration has been cancelled in terms of regulation 17 must-

- (a) inform its students within 14 days from the date of the registrar's notice that its registration has lapsed or been cancelled and notify the students of the arrangements that will be made to safeguard their interests in terms of this regulation;
- (b) issue to each enrolled student a copy of his or her academic transcript as contemplated in regulation 25;
- (c) reimburse or compensate any enrolled student who has a lawful claim on the institution as a consequence of its ceasing to operate from funds established as contemplated in regulation 12(2);
- (d) make adequate arrangements for affected students to complete their programmes at a comparable public or private institution;
- (e) cease to operate before or at a date specified by the registrar;
- (f) ensure that no new students are enrolled after the date specified by the registrar.

(2) An institution that has been issued with an intention to cancel notification by the registrar must submit an appeal or representation on the date specified in the notification.

(3) The registration or provisional registration of an institution that fails to comply with regulation 17A(2) shall be cancelled with immediate effect.

18. Publication of registration notices

(1) The registrar must publish every decision made in terms of this chapter by notice in the Government Gazette.

(2) The registrar must keep a public record of registered or provisionally registered institutions, together with copies of the registration certificates.

(3) The institution must take reasonable steps to ensure that a notice dealing with the lapsing or cancellation of registration is brought to the attention of students enrolled at the institution.

CHAPTER 5

REGISTRATION CERTIFICATE

19. Registration name

(1) Subject to [this] these regulations, if the registrar grants registration or provisional registration, the institution must be registered under its legal name as contemplated in section 32 of the Companies Act, but the registrar may include in the registration certificate such translations, abbreviations, or acronyms that uniquely identify the institution.

(2) Despite (1), the registrar must not register an institution-

(a) under a name that the registrar considers to be fraudulent, false or misleading; or

(b) under the same name as another institution, or include in two certificates of registration the same translation, abbreviation, acronym or trade name.

(3) In the case of sub-regulation (2)(a) or (b), the registrar must agree on an acceptable alternative with the applicant.

20. Certificate of registration

(1) The certificate of registration or provisional registration must include the following-

(a) the registered name of the institution and, where applicable, any approved translation, abbreviation, acronym or trade name;

- (a) the registered name of the institution and, where applicable, any approved translation, abbreviation, acronym or trade name;
 - (b) the institution's registration number as a private higher education institution;
 - (c) approved programmes.
 - (d) the respective sites at which registered programmes are to be offered;
 - (e) the date by which all the requirements for registration must be met, if the institution is provisionally registered in terms of section 54(3) and (4) of the Act;
 - (f) any condition imposed in terms of section 60 of the Act; and
 - (ff) the coat of arms of the Republic of South Africa; and
 - (g) the registrar's name, signature and date of signature.
- (2) The registrar must issue an amended certificate of registration to an institution if its registration is amended -
- a) in terms of sections 58 or 59 of the Act;
 - b) by a new condition or an amended condition imposed in terms of section 60 of the Act; or
 - c) in terms of section 61 of the Act.
- (3) On receipt of the amended certificate of registration, the institution must within 14 days return the previous certificate of registration to the registrar.
- (3A) If an institution requests the replacement of a lost registration certificate it must provide the registrar with an original affidavit certified by the South African Police Service (SAPS) stating that its registration certificate is lost.
- (3B) The registrar must issue an institution with a new registration certificate within 30 working days after the receipt of the original affidavit as contemplated in the above regulation.
- (4) A certificate of registration is not transferable from one institution to another.

CHAPTER 6

RESPONSIBILITY OF AN INSTITUTION

21. Maintenance of registration

In order to maintain its registration an institution must-

- (a) continue to fulfil the requirements for registration contemplated in the Act and chapter 3 of these regulations;
- (b) discharge the responsibilities of a registered institution in terms of this chapter;
- (c) comply with any condition imposed by the registrar in terms of section 60 or 61 of the Act;
- (d) with respect to all its higher education programmes, comply with the requirements of the HEQC in terms of section 53(1)(b)(ii) of the Act and the NQF Act;
- (e) notify the registrar of any change in the information submitted in terms of the Act and these regulations;
- (f) undergo an evaluation by the registrar at intervals to be determined by the registrar. The registrar will determine the date of commencement of the first cycle by a notice in the Government Gazette;
- (g) comply with any other reasonable process arranged by the registrar after consultation with the institution for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration.
- (h) ensure that it:
 - (i) maintains the necessary academic and support staff with appropriate academic or professional qualifications and experience to achieve the objectives of each programme;
 - (ii) maintains a quality management system including assessment policies and procedures appropriate to each programme;
 - (iii) maintains sufficient space, equipment and instructional material to provide education and training of sufficient standard to achieve the objectives of each programme;
 - (iv) does not exceed the enrolment that the facilities and equipment can reasonably accommodate;

- (v) maintains full records of each student's admission, academic progress and assessment of learning in respect of each programme.
- (vi) report to the registrar within 10 working days:
 - (i) loss of any physical facility necessary for the proper conduct of a programme;
 - (ii) loss of any supporting service to a programme;
 - (iii) change in the site of delivery of a programme;
 - (iv) failure to meet any of the accreditation criteria set by the HEQC;
 - (v) any significant reduction in the financial or personnel resources needed to sustain a programme;
 - (vi) any agreement for the joint use of a facility with another public or private institution or provider; or
 - (vii) the intent to acquire another entity or institution.

22. Display of registration status

Subject to section 55(1) of the Act, an institution must display-

- (a) its registration certificate or a certified copy in a prominent place accessible to the public and to all students on each of its sites;
- (b) the following statement in full on its letterhead, official documents and advertisements-
 - (i) if the institution is registered, "Registered with the Department of Higher Education and Training as a private higher education institution under the Higher Education Act, 1997. Registration certificate no. [state number on certificate]"; or
 - (ii) if the institution is provisionally registered, "Provisionally registered with the Department of Higher Education and Training until the date determined by the registrar as a private higher education institution under the Higher Education Act, 1997. Provisional registration certificate no. [state number on certificate]."

23. Registered programmes

(1) An institution must offer only such approved programmes on only such sites as are approved by the registrar and included in the registration certificate.

(1A) Notwithstanding sub-regulation (1), an institution may offer programmes not leading to a qualification on the NQF provided that a list of such programmes is provided to the registrar in its annual report.

(1B) An institution must identify programmes that do not lead to a qualification on the NQF and state explicitly that all programmes leading to a qualification on the NQF must be accredited by the relevant Quality Council and approved by the Department of Higher Education and Training.

(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 registrar must be informed within 10 working days after the institution becomes aware of such circumstances;

(b) the institution must make reasonable arrangements to enable the affected students to complete the programme at a comparable public or private institution; and

(c) despite (b), the institution must ensure that its students are appropriately reimbursed or compensated by utilising the financial surety or guarantee referred to in regulation 13(2);

(3) An institution must submit an application for amendment to the registrar in terms of regulation 4 if it intends to withdraw, indefinitely suspend or add a programme or site.

(3A) An institution must not outsource or franchise the delivery of its programmes with respect to:

- (a) registration;
- (b) tuition;
- (c) teaching and learning support; and
- (d) assessment and certification.

(3B) Any private higher education institution that does not comply with sub-regulation 3(A) is guilty of an offence in terms of section 66 (1) of the Act and is liable on conviction to a sentence which may be imposed for fraud.

24. Information for students and the public

An institution must publish at least once each year a calendar, prospectus or brochure for the information of students and the public containing-

- (a) registered name of the institution;
- (b) contact details for head office and each site;
- (c) the statement contemplated in regulation 22(b);
- (d) mission statement;
- (e) legal status;
- (f) name(s) of director(s), chief executive and senior management;
- (g) names and qualifications of full-time and part-time academic staff employed by the institution;
- (h) admission requirements and procedures including recognition of prior learning;
- (i) language policy;
- (j) mode of instruction;
- (k) details of each registered programme by site;
- (l) accreditation status of each registered programme;
- (m) rules relating to assessment, academic credit accumulation, progression and qualification;
- (n) fees and charges including refund(s) in the case of cancellation or withdrawal;
- (o) student financial aid;
- (p) student support services;
- (q) rules or code of conduct.
- (r) list of all partnership agreements;
- (s) student enrolment contract;
- (t) policy and procedures for handling of student complaints;
- (u) health and wellness policy; and
- (v) policy on disability.

25. Academic records

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

(2) An institution must make available to an enrolled student or past student on request a transcript of his or her academic record which shows-

- (a) full name;
- (b) identity number or passport number and nationality if not a South African citizen;
- (c) student number;
- (d) courses taken by code number and name for each year in chronological order;
- (e) mark or grade for each course, with an explanatory note on the marking or grading system;
- (f) qualification awarded.

(3) An institution must make available to an enrolled student or past student on request a copy of a certificate awarded to the student.

(4) An institution must submit to the CHE, such information from its records as the CHE and SAQA required for the National Learners' Records Database (NLRD).

26. Official documents, marketing and advertising

(1) With respect to all its official documents, advertising and marketing material, an institution must-

- (a) comply with regulation 22(a);
- (b) ensure that all information about its approved programmes and accreditation status is accurate; and
- (c) make no false, fraudulent or misleading statements.

(2) An institution may not display on its letterhead, official documents, marketing or advertising material-

- (a) the national coat of arms of the Republic of South Africa;
- (b) the logo of the Department of Education;
- (c) the logo of the HEQC or the CHE.

(3) An institution may advertise any programme of recreational or general public interest in the areas of its academic and professional competence provided that it does not purport to lead to a qualification registered on the NQF.

(4) An institution may not advertise programmes not leading to a qualification on the NQF as being accredited by any of the Quality Councils as contemplated in the NQF Act or as approved by the Department of Higher Education and Training.

26A Student complaints and grievances

(1) Student complaints and grievances shall be lodged and processed in accordance with the complaint and grievance procedure of an institution.

(2) If an institution is unable to satisfactorily resolve a complaint, the registrar may, at his or her own discretion and depending on the nature of the complaint, assist the parties to resolve the complaint or refer the matter to the consumer protector, CHE, SAPS or any other organisation for further advice and resolution.

(3) All institutions are to keep accurate records of all complaints lodged which can be produced upon request by the Department of Higher Education and Training.

27. Information required by the registrar

An institution must submit such information as the registrar may reasonably require for the purpose of monitoring compliance with the Act and maintaining the higher education information management system, including but not restricted to-

(1) an annual report to be submitted on or before 30 April of each year and comprising:

(i) audited annual financial statements as contemplated in section 57(1)(b) of the Act to be submitted in the form specified by the Department of Higher Education and Training;

(ii) an annual auditor's report as contemplated in section 57(2) of the Act to be submitted by a date determined by the registrar in the form specified by the Department of Higher Education and Training;

(iii) a certified copy of any agreement relating to the provision of academic or administrative services or the sharing of staff or facilities between the institution and another institution.

(iv) any other annual reporting information in a form specified by the registrar to be submitted on or before 30 April of each year

(2) information required in respect of the monitoring and evaluation contemplated in regulation 15; and

(2A) proof of compliance with the requirements for registration in respect of which it was granted provisional registration must be submitted by a

provisionally registered institution in its annual report on a date determined by the registrar;

(2B) certified copies of all partnership agreements entered into providing that;

(a) the agreement is only between registered private higher education institutions or between a registered private higher education institution and a public higher education institution;

(b) the agreement relates to the provision of academic or administrative services or the sharing of staff or facilities;

(c) the agreement is not for the purposes of outsourcing or franchising of the provision of higher education;

(d) the agreement excludes the provision of any programmes by a public higher education institution on behalf of a private higher education institution; and

(e) public higher education institutions assume full responsibility for the provision of their academic programmes.

(2C) certified copies of the agreement for the joint use of a facility that include-

(a) a signed declaration that the agreement entered into complies with the requirements of 2(B)(b) and (c) above; and

(b) a certified copy of the compliance certificate as contemplated in regulation 12;

(3) any other information in a form specified by the registrar.

(2D) In the application contemplated in regulations 3, 4 and 5, an applicant must submit a signed declaration that if registered or provisionally registered, the institution must comply with-

(a) a periodic evaluation of the institution by the registrar at intervals to be determined by the registrar; and

(b) any other reasonable process arranged by the registrar after consultation with the institution for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration as imposed by the registrar in terms of section 60 of the Act.

CHAPTER 7 APPEALS

28. Procedure

(1) Subject to section 64 of the Act, an interested person who appeals against a decision of the registrar must lodge the appeal in writing with the Minister within 30 days of the date of the registrar's decision.

(2) An appeal document must specify-

- (a) the decision being appealed;
- (b) the grounds for the appeal;
- (c) the remedy being sought.

(d) all relevant documentary evidence relating to the matter that may prove that the registrar had erred in his/her determination with the exclusion of new information which is not permitted.

(2A) The Minister may request that the registrar and the appellant clarify information in the appeal or submit additional information before the appeal is determined.

(3) The Minister must decide an appeal within 60 days of its being lodged unless there are compelling reasons for delay and the Minister has informed the appellant accordingly.

CHAPTER 8 GENERAL AND TRANSITIONAL ARRANGEMENTS

29. Conflict of interest

The registrar or any employee contemplated in section 50 of the Act must not-

- (a) have a financial interest in any institution or applicant for registration;
- (b) be a member of the governing body of any institution or applicant for registration;
- (c) engage as a consultant to any institution or applicant for registration.

30. Repeal of Regulations

The Regulations of Private Higher Education Institutions, 2003, published in Government Notice No. 1564, Government Gazette No. 24143 of 13 December 2002, is hereby repealed in its entirety.

31. Transitional arrangements

Despite the repeal of the Regulations of Private Higher Education Institutions, 2003 published in Government Notice No. 1564, Government Gazette No. 24143 of 13 December 2002, as contemplated in regulation 30-

a) the Regulations for the Registration of Private Higher Education Institutions: A Guide for Completing the Application for Registration as a Private Higher Education Institution published in Government Notice No. 335, Government Gazette No. 24976 dated 28 February 2003, continue to exist to the extent that they are consistent with this Act until they are repealed by the Minister by notice in a Gazette;

b) a process or action which was started in terms of the Regulations for the Registration of Private Higher Education Institutions, 2003 (2003 Regulations), prior to the commencement of these Regulations must be concluded in terms of the 2003 Regulations unless such process or action is inconsistent with these Regulations ;

c) a registration made under the 2003 regulations continues to exist to the extent it is consistent with the Higher Education Act, 1997 and these regulations until it lapsed or is withdrawn by the registrar.

32. Appendices

Appendices 1 to 7 will be published in the Government Gazette on or before 28 February 2019.

33. Short title and commencement

These regulations are the Regulations for the Registration of Private Higher Education Institutions, 2016 and come into effect upon publication in the Government Gazette.

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