

Namibia

Higher Education Act, 2003

Regulations for Registration of Private Higher Education Institutions, 2009

Government Notice 160 of 2009

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Regulations for Registration of Private Higher Education Institutions, 2009

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Republic of Namibia
Annotated Statutes

Higher Education Act, 2003

Regulations for Registration of Private Higher Education Institutions, 2009

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Part I – PRELIMINARY

1. Definitions

In these regulations a word or expression defined in the Act has that meaning and, unless the context otherwise indicates-

“accreditation” means the establishment of the status, legitimacy and appropriateness of an institution or programme of study to determine the reliability, credibility and acknowledge the worth of the institution or programme(s) offered by such institution;

“approved programme” means a programme approved by the registrar in terms of regulation 12, and includes a registration certificate in terms of regulation 10;

“location” means any learning location such as a campus, satellite campus or learning centre controlled and administered by an applicant or a private institution;

“person” includes a partnership and association;

“private institution” means private higher education institution;

“programme” means the sequential learning activities, associated with curriculum implementation, leading to the achievement of an appropriate qualification; and

“the Act” means the Higher Education Act, 2003 (Act [No. 26 of 2003](#)).

Part II – REQUIREMENTS FOR REGISTRATION AND APPLICATION PROCESS

2. Eligibility for registration

A person who has been found guilty of an offence contemplated in section 41(1)(a) of the Act may only apply for registration after a period of 5 years after the payment of the fine or serving the term of imprisonment.

3. Application for registration as private institution

- (1) A person who intends to provide higher education at a private institution which such person has established and is maintaining, must apply to the registrar for registration of that institution in the form of Annexure 1.
- (2) An application referred in subregulation (1) must be accompanied by-
 - (a) the appropriate fee set out in Annexure 6;
 - (b) a signed declaration by the applicant that-
 - (i) if registered, the institution does not discriminate on the-
 - (aa) basis of race, colour or creed with regard to the admission of students;
 - (bb) basis of race and colour with regard to the recruitment of staff;
 - (ii) the institution has applied to the NCHE for accreditation, listing the programmes for which it has applied for accreditation or preliminary accreditation;
 - (iii) if registered the institution-
 - (aa) must maintain the necessary academic and support staff with appropriate academic or professional qualifications and experience to achieve the objectives of each programme;
 - (bb) must maintain a quality management system including assessment policies and procedures appropriate to each programme;
 - (cc) must maintain sufficient space, equipment and instructional material to provide education and training of sufficient standard to achieve the objectives of each programme;
 - (dd) does not exceed the enrolment that the facilities and equipment can reasonably accommodate;
 - (ee) must maintain full records of each student's admission, academic progress and assessment of learning in respect of each programme;
 - (iv) if registered, the institution must comply with-
 - (aa) a periodic monitoring and evaluation of the institution by the registrar at intervals to be determined by the registrar;
 - (bb) 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 imposed under section 25;
 - (c) written evidence by the applicant that it complies with all legal requirements relating to the health and safety of persons on the premises; and

- (d) written proof by the applicant that the institution-
 - (i) its income 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.
- (3) If an applicant does not comply with subregulation (2) the registrar must decline to process the application.
- (4) The registrar may require an applicant to clarify items in the application or to submit additional information before the application is determined.
- (5) An applicant must promptly notify the registrar if there is any change in the information submitted in the application.

4. Application for amendment of registration as private institution or for amendment of any condition of registration

- (1) A private institution contemplated in section 27(1) of the Act must apply to the registrar-
 - (a) in the case of an amendment to any of the conditions of registration, in the form of Annexure 2;
 - (b) in the case of an amendment to its registration if the ownership of the institution is to be transferred, in the form of Annexure 3;
 - (c) 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 of Annexure 4.
- (2) An application contemplated in subregulation (1) must be accompanied by the appropriate fee set out in Annexure 6.
- (3) If an applicant does not comply with subregulation (2) the registrar must decline to process the application.
- (4) The registrar may require an applicant to clarify items in the application or to submit additional information before the application is determined.
- (5) An applicant must promptly notify the registrar if there is any change in the information submitted in the application.

5. Withdrawal of application for registration as private institution or for amendment of registration

- (1) Before the registrar has notified an applicant in writing of the result of an application, an applicant referred to in regulation 3 or 4 may withdraw by notice in writing to the registrar the application made under that regulation.
- (2) On receipt of a notice of withdrawal contemplated in subregulation (1) the registrar must forthwith return the application and other documents to the applicant.

6. Subsequent application for registration as private institution

- (1) An applicant-
 - (a) who has withdrawn an application in terms of regulation 5(1); or

- (b) whose application has been denied,
may submit a subsequent application to the registrar as soon as the applicant is able to comply with the requirements concerned.
- (2) Regulation -
 - (a) 3(2) applies with the necessary changes to the submission of a subsequent application for the registration of a private institution;
 - (b) 4(2) applies with the necessary changes to the submission of a subsequent application for the amendment of registration or amendment of any condition of registration, of a private institution.

Part III – DETERMINATION OF REGISTRATION

7. Determination of application for registration as private institution

- (1) The registrar must consider and determine an application for registration as a private institution as soon as practically possible after it has been lodged.
- (2) in determining an application for registration the registrar must consider-
 - [The first word in subregulation (2) should be capitalised.]**
 - (a) all the information and declarations provided by the applicant and any other relevant information;
 - (b) the advice of the NCHE and the NQA on the applicant's application for accreditation;
 - (c) whether, if registered, the applicant is capable of maintaining acceptable standards in all its higher education programmes;
 - (d) whether the applicant has met all other relevant requirements of the Act; and
 - (e) the proposed programmes and qualifications and the respective locations where they are to be offered.
- (3) An applicant who knowingly submits fraudulent, false or misleading information in any application commits an offence and is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

8. Determination of application for amendment of registration as private institution or for amendment of any condition of registration

The registrar must consider and determine an application for amendment of registration or for amendment of any condition of registration of a private institution in accordance with the provisions of the Act and these regulations.

Part IV – REGISTRATION NAME AND REGISTRATION CERTIFICATE

9. Registration name

- (1) Subject to subregulation (2), if the registrar decides to grant an application for registration, the registrar must register the private institution under the name applied for, and may include in the registration certificate such translations, abbreviations, acronyms or trade names that uniquely identify the institution.

- (2) The registrar may not-
 - (a) register a private institution-
 - (i) under a name that the registrar considers to be fraudulent, false or misleading; or
 - (ii) under the same name as another private institution, or
 - (b) include in two certificates of registration the same translation, abbreviation, acronym or trade name.
- (3) In the case of subregulation (2)(a)(i) or (ii) the registrar may agree on an acceptable alternative with the applicant concerned.

10. Form and contents of certificate of registration

- (1) The certificate of registration contemplated in section 25(3)(a)(ii) of the Act must be in the form of Annexure 5, and in addition to the terms and conditions of the registration contemplated in that section, must include -
 - (a) the registered name of the private institution and, where applicable, any approved translation, abbreviation, acronym or trade name;
 - (b) the private institution's registration number;
 - (c) approved programmes;
 - (d) the respective locations at which approved programmes are to be offered; and
 - (e) the registrar's name, signature and date of signature.
- (2) If the registration or any condition of registration of a private institution is amended, the registrar must issue an amended certificate of registration to the private institution.
- (3) On receipt of the amended certificate of registration the owner of the private institution must within 14 days return the previous certificate of registration to the registrar.
- (4) A certificate of registration is not transferable from one private institution to another.

Part V – RESPONSIBILITIES OF PRIVATE INSTITUTION

11. Maintenance of registration

In order to maintain its registration a private institution must-

- (a) continue to fulfil the requirements for registration contemplated in the Act and Part II of these regulations;
- (b) comply with the responsibilities of a registered institution in terms of this Part;
- (c) comply with any condition of registration;
- (d) notify the registrar of any change in the information submitted in terms of the Act and these regulations;
- (e) comply with any other reasonable process arranged by the registrar after consultation with the private institution for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration.
- (f) 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;
- (g) report immediately to the registrar-
 - (i) the loss of or damage to any physical facility necessary for the proper conduct of a programme,
 - (ii) the loss of any supporting service to a programme;
 - (iii) any change in the location of delivery of a programme;
 - (iv) any significant reduction in the financial or personnel resources needed to sustain a programme; or
 - (v) the intent to acquire another entity or private institution.

12. Approved programmes

- (1) A private institution must offer only such programmes on only such locations as are approved by the registrar and included in the registration certificate.
- (2) A private institution must ensure that any approved programme is continued long enough to enable any group of students to complete the full programme, but if unavoidable circumstances prevent this-
 - (a) the registrar must be informed without delay;
 - (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 paragraph (b), the institution must ensure that its students are appropriately reimbursed or compensated by utilising the financial surety or guarantee referred to in regulation 3(2)(d)(iii).

13. Information for students and the public

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

- (a) the registered name of the institution;
- (b) the contact details of the head office and each location;
- (c) a copy of its registration certificate;
- (d) its mission statement;
- (e) the type of legal entity of the institution;
- (f) the names of its owner, chief executive and senior management;
- (g) the names and qualifications of full-time and part-time academic staff employed by the institution;
- (h) its admission requirements and procedures, including recognition of prior learning;

- (i) its language policy;
- (j) its mode of instruction;
- (k) details of each approved programme according to the location where it is offered;
- (l) the accreditation status of each approved programme;
- (m) rules relating to assessment, academic credit accumulation, progression and qualification;
- (n) its fees and charges, including any refund in the case of withdrawal of an application;
- (o) student financial aid;
- (p) student support services; and
- (q) rules or code of conduct.

14. Academic records

- (1) A private institution-
 - (a) must keep a comprehensive record of the academic achievement of each student enrolled in an approved programme;
 - (b) must on request make available to an enrolled student or former student a transcript of the academic record of the student which shows-
 - (i) the full names and surname of the student;
 - (ii) the identity number or passport number and nationality if not a Namibian citizen;
 - (iii) the student number;
 - (iv) the courses taken by code number and name for each year in chronological order;
 - (v) the mark or grade for each course, with an explanatory note on the marking or grading system; and
 - (vi) qualification awarded; and
 - (c) must on request make available to an enrolled student or former student a copy of a certificate awarded to the student.
- (2) A private institution must submit to the NCHE such information from its academic records as the NCHE may requires.

[The verb “may requires” should be “may require” to be grammatical correct.]

15. Official documents, marketing and advertising

- (1) With respect to all its official documents, advertising and marketing material, a private institution-
 - (a) must ensure that all information about its approved programmes and accreditation status is accurate; and
 - (b) may make no false, fraudulent or misleading statements.
- (2) A private institution may not display on its letterhead, official documents, marketing or advertising material-
 - (a) the national coat of arms of the Republic of Namibia;
 - (b) the logo of the Ministry; or
 - (c) the logo of the NCHE.

- (3) A private institution-
- (a) 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 national qualifications framework set up and administered by the NQA;
 - (b) may not market programmes contemplated in paragraph (a) as being accredited or approved by the NCHE or registered by the Ministry.

16. Information required by the registrar

A private 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-

- (a) 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; and
- (b) information required in respect of the monitoring and evaluation contemplated in regulation 3(2)(b)(iv)(aa).

17. Deregistration or closure of private institution

A private institution that has been notified by the registrar that the institution has been deregistered as contemplated in section 29(3) or has been closed under section 31(2) of the Act must-

- (a) inform its students within 14 days from the date of the registrar's notice that the institution has been deregistered or closed, and notify the students of the arrangements that will be made to safeguard their interests;
- (b) issue to each enrolled student a copy of his or her academic transcript as contemplated in regulation 14(1)(b);
- (c) refund any enrolled student who has a lawful claim on the institution as a consequence of its ceasing to operate from funds as contemplated in regulation 3(2)(d);
- (d) make adequate arrangements for affected students to complete their programmes at a comparable public or private institution; and
- (e) cease operating before or at the end of the academic year, and any institution that does not so cease its operations, commits an offence.

Part VI – GENERAL

18. Fees for certified copies of or extracts from documents

The fees payable for obtaining a certified copy of or extract from any document kept by the registrar in terms of the Act as contemplated in section 32 of the Act are in Annexure 6.

19. Penalties

A person convicted of an offence in terms of these Regulations is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Annexures 1 - 6

Forms

[Editorial note: The forms have not been reproduced.]