

TERTIARY EDUCATION COMMISSION ACT

Act 9 of 1988 – 15 August 1988

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TERTIARY EDUCATION COMMISSION ACT

1. Short title

This Act may be cited as the Tertiary Education Commission Act.

2. Interpretation

In this Act—

"accreditation", in relation to an institution or education programme, means confirmation that the institution or programme satisfies the minimum criteria or standards for it to operate or be offered for a specified duration, as the case may be;

"Board" means the Board referred to in section 5;

"Chairperson" means the Chairperson of the Board;

"Commission" means the Tertiary Education Commission established under section 3;

"effective date", in relation to an application under section 12A, means the date on which the application and all the required relevant documents, reports and other information specified in the guidelines are submitted;

"equivalence", in relation to an academic or professional qualification, means the establishment of 2 or more educational programmes or qualifications as being equal or comparable in value;

"Executive Director" means the Executive Director of the Commission appointed under section 7;

“member” —

- (a) means a member of the Board; and
- (b) includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of education is assigned;

“post-secondary education” —

- (a) means an educational programme which is offered in a university or higher education institution with the lowest level of access being a certificate which corresponds to the first level of a first degree programme; and
- (b) includes tertiary education;

“programme” does not include vocational course;

“recognition”, in relation to an academic or professional qualification, means recognition that the qualification is of an acceptable quality at the specified level and may give access to further studies or employment or profession;

“tertiary education institution” means an institution specified in the Schedule;

“vocational course” has the same meaning as in the Law Practitioners Act.

[S. 2 amended by s. 4 (a) of Act 18 of 2005 w.e.f. 1 July 2005; s. 30 (a) of Act 17 of 2007 w.e.f. 22 August 2007; s. 19 (a) of Act 30 of 2011 w.e.f. 3 September 2012.]

3. Establishment of Commission

(1) There is established for the purposes of this Act a Tertiary Education Commission.

(2) The Commission shall be a body corporate.

4. Objects of Commission

The objects of the Commission shall be to—

- (a) foster the development of post-secondary education and training facilities;
- (b) provide guidelines to tertiary education institutions for preparing annual and long-term plans for the operation and development of post-secondary education and training;
- (c) make recommendations to the Minister on the development of post-secondary education in Mauritius;
- (d) advise the Minister on policy matters relating to the award of scholarships;
- (e) promote coordination among tertiary education institutions in respect of the—
 - (i) use of physical infrastructure and other material resources;
 - (ii) optimum use of human resource;
 - (iii) organisation of teaching programmes; and
 - (iv) planning and implementation of research;

- (f) register and accredit private universities and other institutions offering post-secondary education in Mauritius;
- (g) promote and maintain high quality standards in post-secondary education through appropriate quality assurance and accreditation mechanisms;
- (h) determine the recognition and equivalence of academic or professional qualifications in post-secondary education obtained in or outside Mauritius.

[S. 4 amended by s. 4 (b) of Act 18 of 2005 w.e.f. 1 July 2005.]

4A. Functions of Commission

(1) In furtherance of its objects, the Commission shall—

- (a) make necessary provision for promoting and enhancing quality assurance of post-secondary education;
- (b) determine applications for the establishment of private institutions, or centres or branch campuses of overseas institutions, offering post-secondary education in Mauritius;
- (c) generally monitor and oversee post-secondary education;
- (d) formulate and publish policies and criteria for the registration and accreditation of private institutions offering post-secondary education in Mauritius;
- (e) register all recognised qualifications obtained in the post-secondary educational sector;
- (f) register and accredit private universities and other institutions offering post-secondary education in Mauritius and accredit their programmes;
- (g) publish an annual list of registered and accredited post-secondary education institutions;
- (h) undertake periodic academic audits of institutions offering post-secondary education in Mauritius;
- (ha) monitor the functioning of such independent rating system with regard to post-secondary education as may be set up; and
- (i) do such things as are incidental or conducive to the attainment of its objects under this section.

(2) In the performance of its functions, the Commission shall have regard to—

- (a) the educational, cultural, social and economic needs of Mauritius;
- (b) the promotion of the most effective use of available resources; and
- (c) the need to encourage students to take advantage of the post-secondary institutions in Mauritius.

[S. 4A inserted by s. 4 (c) of Act 18 of 2005 w.e.f. 1 July 2005; s. 30 (b) of Act 17 of 2007 w.e.f. 22 August 2007; amended by s. 44 (a) of Act 27 of 2013 w.e.f. 1 April 2014.]

5. The Board

(1) The Commission shall be administered and managed by a Board which shall consist of a Chairperson and 8 other members, to be appointed by the Prime Minister.

(2) Every member shall hold office for 3 years but shall be eligible for re-appointment.

(3) At a meeting of the Board, 6 members shall constitute a quorum.

(4) Subject to subsection (3), the Board shall regulate its meetings and proceedings in such manner as it may determine.

(5) Notwithstanding subsection (2), the Chairperson shall be appointed on such terms and conditions as the Prime Minister may determine.

[S. 5 amended by s. 4 (d) of Act 18 of 2005 w.e.f. 1 July 2005.]

6. Powers of Board

(1) The Board may do such things as appear requisite and advantageous in furtherance of the objects of the Commission and may, in particular—

- (a) receive funds from Government and raise funds from other sources for the provision and development of tertiary education;
- (b) allocate funds to tertiary education institutions in the light of their annual and long term programmes;
- (c) require tertiary education institutions to—
 - (i) provide information and data on any matter falling within the Commission's functions;
 - (ii) submit annual and long term plans; and
 - (iii) submit financial estimates and accounts, and prepare periodic reports, in such form as the Board shall determine; and
- (d) appoint sub-committees and co-opt such persons to such sub-committees as it may determine.

(2) Without prejudice to section 2 of this Act, in this section—

“programmes” includes vocational course.

[S. 6 amended by s. 19 (b) of Act 30 of 2011 w.e.f. 3 September 2012.]

7. Executive Director

(1) There shall be an Executive Director of the Commission who shall be the chief executive officer of the Commission.

(2) The Executive Director shall be appointed, with the approval of the Minister, by the Board on such terms and conditions as it may determine.

(3) The Executive Director shall be responsible to the Board for the execution of the policy and the control and management of the day to day business of the Board.

(4) The Executive Director shall be entitled to attend every meeting of the Board and take part in its deliberations, but shall not be entitled to vote on a matter before the Board.

(5) In the discharge of his functions, the Executive Director shall act in accordance with such directions as he may receive from the Board.

8. Delegation of functions

(1) The Commission may delegate to the Executive Director such of its functions under this Act as may be necessary to enable him to carry out effectively the day-to-day business of the Commission.

(2) Any delegation made under subsection (1) shall be subject to section 7 (3).

8A. Application for recognition or equivalence of certificates

An application for recognition or equivalence of an academic or professional certificate in the post-secondary educational sector shall be made in such form and manner as may be prescribed.

[S. 8A inserted by s. 4 (e) of Act 18 of 2005 w.e.f. 1 July 2005.]

9. Appointment of staff

(1) Subject to subsection (2), the Board may employ, on such terms and conditions as it thinks fit, such staff as may be necessary for the proper discharge by the Commission of its functions.

(2) The appointment of all staff shall be subject to the approval of the Minister.

(3) All staff employed by the Board shall be under the administrative control of the Executive Director.

10. General Fund

(1) The Commission shall establish a General Fund—

- (a) into which all monies received by the Commission shall be paid;
- (b) out of which all payments required to be made by the Commission shall be effected.

(2) The Commission may, in the discharge of its functions, charge to the General Fund all remuneration, salaries, fees, working expenses and other charges properly arising.

11. Exemptions

(1) The Commission shall be exempt from the payment of income tax.

(2) No stamp duty or registration fee shall be payable in respect of any document signed or executed by the Commission or under which the Commission is a beneficiary.

12. Donations

Article 910 of the Code Civil Mauricien shall not apply to the Commission.

12A. Establishment, registration and accreditation

(1) No person shall—

- (a) establish a post-secondary educational institution or a centre, or branch campus, of an overseas institution unless it has been approved by the Commission; or
- (b) operate a post-secondary educational institution or a centre, or branch campus, of an overseas institution unless it has been registered with, and its programmes accredited by, the Commission.

(2) (a) Every person who intends to establish a post-secondary educational institution or a centre, or branch campus, of an overseas institution shall apply to the Commission in accordance with the guidelines issued by the Commission and in such form and manner as may be determined by the Commission.

(b) Every application made under paragraph (a) shall be accompanied by all the required relevant documents, reports and other information specified in the guidelines.

(3) The Commission shall, on the effective date, issue to the applicant an acknowledgement receipt in respect of the application.

(4) (a) The Commission shall examine the application made under subsection (2), approve or reject the application and notify in writing the applicant accordingly within 15 working days of the effective date.

(b) Where the Commission rejects an application, it shall give reasons therefor.

(c) Where an applicant has not received a notification under paragraph (a) after 5 working days of the expiry of the due date, the application shall be deemed to have been approved by the Commission and the acknowledgement receipt shall be deemed to be the letter of approval.

(5) No person shall operate a post-secondary educational institution unless every academic staff or trainer in the institution is registered with the Commission.

(6) The owner or manager of an institution shall, where an application has been approved pursuant to subsection (4) (a) or (c), apply to the Commission—

- (a) for the registration of his post-secondary educational institution and every academic staff or trainer in such institution; and
- (b) for the accreditation of every programme leading to an award offered by his post-secondary educational institution,

in accordance with the guidelines issued by the Commission and in such form and manner as may be determined by the Commission.

(7) The Commission shall, on the effective date, issue to the applicant an acknowledgment receipt in respect of the application.

(8) (a) The Commission shall examine the application made under subsection (6), approve or reject the application and notify in writing the applicant accordingly within 42 working days of the effective date.

(b) Where the Commission rejects an application, it shall give reasons therefor.

(c) Where an applicant has not received a notification under paragraph (a) after 5 working days of the expiry of the due date, the application shall be deemed to have been approved by the Commission and the acknowledgment receipt shall be deemed to be the letter of approval.

(9) The approval of an application under subsection (4) (a) or (c) or (8) (a) or (c) shall be subject to such terms and conditions as the Commission may determine.

(10) The guidelines referred to in subsections (2) and (6) shall be posted on the website of the Commission.

[S. 12A inserted by s. 4 (f) of Act 18 of 2005 w.e.f. 1 July 2005; repealed and replaced by s. 30 (c) of Act 17 of 2007 w.e.f. 22 August 2007.]

12B. Use of word "University" or similar word

(1) No institution offering post-secondary education shall, without the written approval of the Commission, use in relation to its name the word or words "Academy", "College of Advanced Education", "College of Further Education", "College of Higher Education", "Institute of Higher Education", "Institute of Science and Technology", "Polytechnic", "University" or any word or words which, in the opinion of the Commission, is or are similar to, or closely resembles or resemble, those words.

(2) No centre or branch campus of an overseas institution shall include the name of that institution as part of its name unless the centre or branch campus is established and operated by that overseas institution.

[S. 12B inserted by s. 4 (f) of Act 18 of 2005 w.e.f. 1 July 2005; repealed and replaced by s. 30 (d) of Act 17 of 2007 w.e.f. 22 August 2007.]

12BA. Enrolment of foreign students

Every post-secondary educational institution wishing to enrol foreign students shall comply with such terms and conditions as may be prescribed.

[S. 12BA inserted by s. 44 (b) of Act 27 of 2013 w.e.f. 1 April 2014.]

12C. Suspension or revocation of registration or accreditation

(1) Subject to subsections (2) and (3), the Commission may, at any time, suspend or revoke the registration or accreditation of a post-secondary educational institution where, in the opinion of the Commission, the institution has contravened this Act or any regulations made under the Act, or any condition imposed by the Commission.

(2) Where the Commission decides to suspend or revoke the registration, accreditation or approval of a post-secondary educational institution under subsection (1), it shall give written notice of this decision to the owner or manager of the post-secondary educational institution, stating—

- (a) the reasons for which it proposes to do so; and
- (b) the time, being not less than 14 days, within which the owner or manager may make written representations to object to the proposal.

(3) The Commission shall, after considering any representation made under subsection (2), communicate its decision and the reasons therefor in writing to the owner or manager of the post-secondary educational institution not later than 3 months from the date a notice is served under subsection (2).

[S. 12C inserted by s. 4 (f) of Act 18 of 2005 w.e.f. 1 July 2005.]

13. Powers of Minister

(1) The Minister may give such directions of a general nature to the Board not inconsistent with this Act as he considers necessary in the public interest and the Board shall comply with those directions.

(2) The Commission shall provide the Minister with such information in relation to its activities and shall furnish him with such documents as he may require.

13A. Offences

(1) Any person who contravenes section 12A (1) or (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 600,000 rupees and to imprisonment for a term not exceeding 3 years.

(2) Any person who, in relation to an application under section 12A (2) or (6), submits any information or document which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(3) Any person who contravenes any provision of this Act, other than section 12A (1), (2), (5) or (6), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 13A inserted by s. 4 (g) of Act 18 of 2005 w.e.f. 1 July 2005; repealed and replaced by s. 30 (e) of Act 17 of 2007 w.e.f. 22 August 2007; amended by s. 44 (c) of Act 27 of 2013 w.e.f. 1 April 2014.]

14. Regulations

(1) The Minister may, on the recommendation of the Commission—

- (a) make such regulations as he thinks fit for the purposes of this Act;
- (b) by regulations, amend the Schedule.

(2) Regulations made under subsection (1) may—

- (a) provide for the levying of fees and taking of charges;
- (b) provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding one year.

[S. 14 amended by s. 30 (f) of Act 17 of 2007 w.e.f. 22 August 2007; s. 44 (d) of Act No. 27 of 2013 w.e.f. 1 April 2014.]

15. – 16. —

SCHEDULE

[Section 2]

Fashion and Design Institute

Mahatma Gandhi Institute

Mauritius Institute of Education

Open University of Mauritius

Rabindranath Tagore Institute

Université des Mascareignes

University of Mauritius

University of Technology, Mauritius

[Sch. amended by Act 2 of 2000; s. 14 (5) of Act 48 of 2002 w.e.f. 28 December 2002; s. 29 (4) of Act 11 of 2008 w.e.f. 9 July 2008; s. 28 (3) of Act 2 of 2010 w.e.f. 12 July 2012; s. 37 (3) of Act 4 of 2012 w.e.f. 6 September 2012.]
