

**LAWS OF BRUNEI**

**CHAPTER 263**

**BRUNEI DARUSSALAM  
NATIONAL ACCREDITATION COUNCIL**

**S 44/2011**

**REVISED EDITION 2023**



**LAWS OF BRUNEI**

**REVISED EDITION 2023**

**CHAPTER 263**

**BRUNEI DARUSSALAM  
NATIONAL ACCREDITATION COUNCIL**

**ARRANGEMENT OF SECTIONS**

Section

**PART 1**

**PRELIMINARY**

1. Citation
2. Interpretation
3. Prevailing law

**PART 2**

**BRUNEI DARUSSALAM NATIONAL ACCREDITATION COUNCIL**

4. Brunei Darussalam National Accreditation Council
5. Composition of Council
6. Functions of Council
7. Temporary exercise of functions of Chairman
8. Secretary
9. Meetings

10. Council may invite others to meetings
11. Establishment of Secretariat
12. Functions of Secretariat
13. Powers of Secretariat
14. Directions by Minister
15. Committees on accreditation
16. Reports and information
17. Revocation of appointment and resignation
18. Vacation of office
19. Filling of vacancies
20. Committees

### PART 3

#### BRUNEI DARUSSALAM QUALIFICATIONS FRAMEWORK

21. The Framework
22. Objectives of Framework
23. Compliance with Framework

### PART 4

#### ACCREDITATION

##### *Chapter 1*

##### *Programmes and qualifications under Brunei Darussalam Qualifications Framework*

24. Application for accreditation
25. Power to grant or refuse accreditation
26. Letter of accreditation
27. Power to impose conditions.

28. Revocation of accreditation

*Chapter 2*

*Professional programmes and professional qualifications*

29. Application for accreditation  
30. Sub-Committee  
31. Power to grant or refuse accreditation  
32. Letter of accreditation  
33. Power to impose conditions  
34. Revocation of accreditation

*Chapter 3*

*Foreign programmes and qualifications*

35. Application for accreditation  
36. Power to grant or refuse accreditation  
37. Letter of accreditation  
38. Power to impose conditions  
39. Revocation of accreditation

*Chapter 4*

*Self-accrediting higher education providers*

40. Application for self-accreditation status on invitation  
41. Registering programmes or qualifications  
42. Letter of self-accreditation and letter of accreditation  
43. Revocation of self-accreditation status or cancellation of registration

*Chapter 5*

*Accreditation of programmes, courses and qualifications provided by  
Local Private Higher Education Institutions*

- 44. Application for accreditation
- 45. Power to grant or refuse accreditation
- 46. Letter of accreditation
- 47. Power to impose conditions
- 48. Revocation of accreditation

*Chapter 6*

*Prior learning and credit transfer*

- 49. Application for accreditation
- 50. Power to grant or refuse accreditation
- 51. Power to impose conditions
- 52. Revocation of accreditation

PART 5

EVALUATION OF OTHER QUALIFICATIONS

- 53. Application for equivalent evaluation
- 54. Evaluation

PART 6

INSTITUTIONAL AUDIT

- 55. Institutional audit

PART 7

BRUNEI DARUSSALAM QUALIFICATIONS REGISTER

56. Brunei Darussalam Qualifications Register

PART 8

APPEALS

57. Appeals  
58. Power of Minister or Appellate Committee on appeals  
59. Decision of Minister or Appellate Committee on appeals

PART 9

ENFORCEMENT AND INVESTIGATION

60. Authorised officer  
61. Power to investigate etc.  
62. Powers of examination  
63. Production of documents etc.  
64. Seizure of documents etc.  
65. Application for search warrant  
66. Power of magistrate to issue search warrant  
67. Search and seizure without warrant  
68. Production of authority card  
69. No costs or damages arising from seizure to be recoverable

PART 10

OFFENCES AND PENALTIES

70. Enrolment of students for programme claimed to be accredited

- 71. Prohibition on advertisement etc.
- 72. Offences and penalties relating to higher education qualification
- 73. Offences and penalties relating to applications made under Act
- 74. Offences and penalties relating to letters of accreditation
- 75. Offences relating to inspection, enforcement and investigation

PART 11

GENERAL

- 76. Institution of prosecution
  - 77. Jurisdiction of Courts of Magistrates
  - 78. Offences by body corporate etc..
  - 79. Compounding of offences
  - 80. Penalty for offences not otherwise provided for
  - 81. Penalty in case of continuing offence
  - 82. Presumption
  - 83. Public servant
  - 84. Protection against suit and legal proceedings
  - 85. Obligation of secrecy
  - 86. Power to exempt
  - 87. Regulations
-



## BRUNEI DARUSSALAM NATIONAL ACCREDITATION COUNCIL ACT

**An Act to establish the Brunei Darussalam National Accreditation Council and to provide for its functions and powers to accredit higher educational programmes and qualifications, to supervise and regulate the quality and standard of higher education providers, to establish and maintain the National Qualifications Register and to provide for related matters**

*Commencement: 13th July 2011*

### PART 1

#### PRELIMINARY

##### **Citation**

1. This Act may be cited as the Brunei Darussalam National Accreditation Council Act.

##### **Interpretation**

2. (1) In this Act, unless the context otherwise requires —

“academic load” means the quantitative measure of learning activities which includes lectures, tutorials, seminars, practical work, field work, self study and examinations to achieve a set of learning outcomes;

“accreditation” means a recognition in writing which is in accordance with the standard set and granted by the Council under Part 4 of this Act after examining and assessing —

(a) a higher education programme or qualification; or

(b) a higher education provider including a private higher educational institution;

“accredited” means accredited under Part 4;

“accredited programme or qualification” means a programme or qualification which is accredited under Part 4;

“advanced diploma” means the advanced diploma awarded to a person after the successful achievement by him of a set of learning outcomes designed to lead to the award of such advanced diploma or the equivalent thereof;

“authorised officer” means an officer appointed by the Minister under section 60;

“branch representative of an examination or certification body” means any body established under any written law for the purpose of representing an examination or certification body;

“certificate” means a certificate of academic distinction awarded by a higher educational institution to a person after successful achievement by him of a course of study conducted and designed by the former to lead to the award of such certificate or the equivalent thereof;

“Council” means the Brunei Darussalam National Accreditation Council established by section 4;

“course of study” means a single course or a set of related courses, and includes short or long term courses and training programmes conducted by a higher education institution leading to the award of a higher education qualification;

“credit” means a representative measure used to reflect the academic load;

“degree” means the academic distinction awarded by a higher education institution to a person at a Bachelor level, a Masters level or a Doctorate level after the successful achievement by him of a course of study conducted and designed by the former to lead to the award of such degree or the equivalent thereof;

“diploma” means the diploma of academic distinction awarded by a higher education institution to a person after the successful achievement by him of a course of study designed to lead to the award of such diploma or the equivalent thereof;

“foreign programme or qualification” means a programme leading to a qualification awarded by a foreign higher education provider or any qualification awarded by a foreign higher education provider;

“Framework” means the Brunei Darussalam Qualifications Framework referred to in Part 3;

“higher education programme” means a programme leading to a higher education qualification;

“higher education provider” means a body corporate, organisation or other body of persons which conducts higher education or training programmes, including skills training programmes, leading to the award of a higher education qualification or which awards a higher education qualification and includes the public or private higher education providers, examination or certification bodies or their branch representatives and includes higher education institution and education consultancies;

“higher education qualification” means a certificate, diploma, advanced diploma or degree or their respective equivalents, and includes any other qualification stipulated in the Framework;

“institutional audit” means the evaluation of an institution to determine whether it is achieving its mission and goals, to identify strengths and areas of concern and to enhance quality, carried out in accordance with section 55;

“learning outcome” means the standard to be achieved from an educational or skills training programme or qualification as determined by the Framework;

“Minister” means the Minister of Education;

“professional body” means any body established under any written law for the purposes of regulating a profession and its qualifications or any similar body recognised by the Government as having a professional status;

“programme” means any arrangement of a course of study that is structured or designed to achieve a learning outcome leading to the award of a higher education qualification;

“Register” means the National Qualifications Register established and maintained under section 56(1);

“Secretariat” means the Secretariat of the Brunei Darussalam National Accreditation Council established by section 11;

“skills training” means work based and industry-oriented activities which aim to provide the knowledge, skills and attitude required for the effective and efficient performance of a task or job;

“skills training provider” means a body corporate, organisation or other body of persons that conducts a skills training programme leading to the award of a higher education qualification.

(2) For the avoidance of doubt, it is declared that any accreditation granted under this Act shall not be construed as recognition of the higher education programme or qualification, or of a higher education provider, for the purposes of eligibility to practise as a professional in any professional body.

### **Prevailing law**

3. (1) This Act applies to educational credentials issued by higher education providers and institutions within or outside Brunei Darussalam.

(2) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other written law relating to accreditation of programmes or qualifications.

(3) Except for professional programmes or professional qualifications, in the event of any conflict or inconsistency between the provisions of this Act and those of any other written law pertaining to accreditation of programmes or qualifications, the provisions of this Act shall prevail.

## **PART 2**

### **BRUNEI DARUSSALAM NATIONAL ACCREDITATION COUNCIL**

#### **Brunei Darussalam National Accreditation Council**

4. There is hereby established for the purposes of this Act the Brunei Darussalam National Accreditation Council.

### Composition of Council

5. (1) The Council shall comprise the following members who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan —

- (a) the Minister of Education, who shall be the Chairman;
- (b) the Deputy Minister of Education, who shall be the Deputy Chairman;
- (c) the Permanent Secretary of the Ministry of Education responsible for higher education;
- (d) a Permanent Secretary of the Ministry of Religious Affairs;
- (e) a Permanent Secretary of the Ministry of Development;
- (f) a Permanent Secretary of the Ministry of Primary Resources and Tourism;
- (g) a Permanent Secretary of the Ministry of Health;
- (h) the Chairman of the Public Service Commission;
- (i) the Director-General of Public Service Department;
- (j) the Vice-Chancellor of Universiti Brunei Darussalam;
- (k) the Vice-Chancellor of Universiti Teknologi Brunei;
- (l) the Rector of Universiti Islam Sultan Sharif Ali;
- (m) the Ra'ees of Kolej Universiti Perguruan Ugama Seri Begawan; and
- (n) a Special Duties Officer of the Ministry of Education appointed by the Minister to be assigned to the Secretariat.

(2) The Permanent Secretary of the Ministry of Education shall be the secretary to the Council.

(3) Subject to this Act, the Council shall have the power to regulate its own proceedings.

**Functions of Council**

6. (1) The functions of the Council shall be —

(a) to formulate plans and policies relating to the quality and standard of educational credentials to be complied with within Brunei Darussalam;

(b) to provide policies and guidelines for the purpose of assessment and accreditation of higher education qualifications and credentials from within or outside Brunei Darussalam;

(c) to act as an advisory body to all ministries or other interested parties in all matters related to assessment and accreditation of higher education qualifications and credentials;

(d) to act as the sole national accrediting body;

(e) to approve policies and guidelines relating to accreditation of programmes, qualifications or higher education providers or institutional audit;

(f) to determine and approve any matter relating to the functions, powers and duties of any committees established under section 20;

(g) to receive and monitor reports, returns, statements and any other information relating to accreditation, institutional audit and evaluation;

(h) to establish, where it considers necessary, *ad hoc* sub-committees to assist it in matters relating to the assessment and accreditation of qualifications in the specialised fields of profession;

(i) to review and determine any doubts relating to any qualifications; and

(j) to do all things necessary for the performance of its functions under this Act.

(2) The Council may give the secretary specific directions consistent with this Act but not inconsistent with the directions of the Minister under section 14, in respect of the powers and functions of the Secretariat, and the secretary shall give effect to such directions.

### **Temporary exercise of functions of Chairman**

7. The Minister may appoint temporarily any member of the Council, other than the secretary, to act as the Chairman for the period when —

- (a) the office of the Chairman is vacant;
- (b) the Chairman is absent from Brunei Darussalam; or
- (c) the Chairman is, for any other reason, unable to perform the duties of his office.

### **Secretary**

8. (1) The appointment of the Permanent Secretary of the Ministry of Education as secretary to the Council under section 5(2) is subject to such conditions as His Majesty the Sultan and Yang Di-Pertuan may determine.

(2) The secretary shall be responsible for the overall administration and management of the functions and day-to-day affairs of the Council.

(3) The secretary shall perform such further duties as the Chairman or Council may direct.

(4) In performing his duties, the secretary shall act under the general authority and directions of the Council.

(5) The Minister may appoint one or more other persons to assist the secretary in the performance of his duties and the exercise of his powers under this Act.

(6) If for any reason the secretary is unable to perform the duties of his office, the most senior officer of the Secretariat shall perform the duties of the secretary.

### **Meetings**

9. (1) The Council shall meet at such time and place as may be appointed by the Chairman and the Chairman may call for such meetings —

- (a) if a matter has been referred to the Council by the Secretariat and the Council deems it necessary to convene a meeting therefor; or

(b) if the Council, of its own accord, requires that a meeting be convened.

(2) At least 14 days' notice in writing of such meeting to be held shall be given to the members of the Council.

(3) The Chairman shall preside at a meeting of the Council.

(4) At every meeting of the Council, one half of the total number of members shall form a *quorum*.

(5) Every member present shall be entitled to one vote.

(6) A decision at a meeting of the Council shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(7) Subject to this Act and this section, the Council may make rules regulating its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes and other related documents.

### **Council may invite others to meetings**

**10.** (1) The Council may invite any person to attend a meeting or deliberation of the Council for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(2) A person invited under subsection (1) may be paid such fees as the Council may determine.

### **Establishment of Secretariat**

**11.** There is hereby established a Secretariat for the purpose of the implementation of the Council's functions.

### **Functions of Secretariat**

**12.** (1) The Secretariat shall carry out the policies and guidelines set out by the Council and shall be responsible for all administrative matters relating to the Council and its activities.



(2) Without prejudice to the generality of subsection (1), the Secretariat shall have the following functions —

- (a) to implement and update the Framework;
- (b) to accredit programmes, qualifications and higher education providers;
- (c) to conduct institutional audit and review of programmes, qualifications and higher education providers;
- (d) to produce an updated compendium consisting of a list of institutions and qualifications accredited to the Council;
- (e) to conduct courses, training programmes and briefings and to provide consultancy and advisory services relating to quality assurance;
- (f) to establish and maintain liaison and cooperation with quality assurance and accreditation bodies in higher education within and outside Brunei Darussalam;
- (g) to act as a qualifications reference centre on accredited programmes, qualifications and higher education providers;
- (h) to advise and make recommendations to the Minister on any matter relating to quality assurance in higher education; and
- (i) to do all things reasonably necessary for the performance of its functions.

### **Powers of Secretariat**

**13.** (1) The Secretariat shall have the power to do all things expedient or reasonable for and incidental to the carrying out of its functions.

(2) The powers of the Secretariat shall include power —

- (a) to undertake, coordinate or commission any person to undertake or coordinate activities relating to research and development on matters relating to quality assurance;

(b) to enter into negotiations, agreements or arrangements for the discharge of its functions; and

(c) to do all things reasonably necessary for the performance of its duties.

(3) The secretary shall perform the functions and exercise the powers of the Secretariat, and the functions and powers so performed and exercised shall be in the name of the Council.

### **Directions by Minister**

**14.** (1) The Secretariat shall be responsible to the Minister.

(2) The Minister may give the Secretariat directions of a general character consistent with the provisions of this Act relating to the performance of the functions and powers of the Secretariat and the Secretariat shall give effect to any such directions.

### **Committees on accreditation**

**15.** (1) The Council shall establish committees on accreditation for the purpose of evaluating and analysing working papers and proposals related to accreditation reports or to the accreditation of programmes or qualifications reports.

(2) The Council may elect the Chairman of any such committee established under subsection (1).

(3) The Council may appoint any person to be a member of an accreditation committee.

(4) A member of an accreditation committee shall hold office for such terms and conditions as may be specified in his appointment.

(5) The Council may revoke the appointment of any member of an accreditation committee without assigning any reason for the revocation.

(6) A member of a committee may, at any time, resign by giving notice in writing to the Chairman of the committee.

(7) The Council may, at any time, discontinue the establishment or alter the composition of an accreditation committee.

(8) Subject to this Act, an accreditation committee may regulate its own procedure.

(9) An accreditation committee shall be subject to, and act in accordance with, any direction given to it by the Council.

(10) The meetings of an accreditation committee shall be held at such times and places as the Chairman of the committee may determine.

(11) An accreditation committee may invite any person to attend any of its meetings for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

(12) This section does not apply to any professional programme or professional qualification referred to in Chapter 2 of Part 4.

### **Reports and information**

**16.** (1) The Secretariat shall furnish to the Minister such reports and information with respect to its activities as the Minister may require or direct.

(2) The reports and information shall be in such form and shall contain such information relating to the proceedings and the policy of the Council and the Secretariat and to any other matter as the Minister may specify.

### **Revocation of appointment and resignation**

**17.** (1) His Majesty the Sultan and Yang Di-Pertuan may at any time revoke the appointment of any member of the Council without assigning any reason for the revocation.

(2) A member of the Council may at any time resign his office by giving notice in writing to that effect to the Minister.

### **Vacation of office**

**18.** (1) The office of the Chairman or a member of the Council shall be vacated —

(a) if there has been proved against him, or he has been convicted of, a charge in respect of —

- (i) an offence involving fraud, dishonesty or moral turpitude;
  - (ii) an offence under any written law relating to corruption; or
  - (iii) any other offence punishable with imprisonment, for more than 2 years;
- (b) if his conduct, whether in connection with his duties as a member of the Council or otherwise, has been such as to bring discredit on the Council;
- (c) if he becomes a bankrupt;
- (d) if he becomes of unsound mind or is otherwise incapable of discharging his duties;
- (e) in the case of the Chairman, if he absents himself from a meeting of the Council without leave of the Minister;
- (f) in the case of a member, if he absents from three consecutive meetings of the Council without the prior leave in writing of the Chairman;
- (g) if his appointment is revoked by His Majesty the Sultan and Yang Di-Pertuan; or
- (h) if he resigns.

(2) The Council may perform any of its functions under this Act notwithstanding any vacancy in its membership.

### **Filling of vacancies**

**19.** Where a person ceases to be a member of the Council, His Majesty the Sultan and Yang Di-Pertuan may appoint another person to fill the vacancy and the person so appointed shall hold office for the residue of the period of appointment of the member in whose place he is appointed.

## Committees

20. (1) The Council may establish such committees as it considers necessary or expedient to assist it in the performance of its functions.

(2) The provisions of section 15(2) to (12) apply *mutatis mutandis* to the committees established under subsection (1).

## PART 3

### BRUNEI DARUSSALAM QUALIFICATIONS FRAMEWORK

#### The Framework

21. (1) There shall be a national guideline to the accreditation of qualifications process known as the Brunei Darussalam Qualifications Framework, consisting of a list of accredited qualifications, programmes and higher education providers based on a set of criteria and standards, including learning outcomes achieved and credits based on students' academic load.

(2) The Council shall be responsible for the implementation of the Framework.

(3) Subject to subsection (5), the Council may, for the purposes of subsection (1) amend the Framework and may collaborate, cooperate and coordinate with any person, including other government agencies, higher education providers, students, academic staff, quality assurance and accreditation bodies, examination or certification bodies and employers in consideration of such amendments.

(4) In the case of professional programmes, professional qualifications and higher education providers, the Framework shall be amended to be consistent with and in accordance to the criteria and standards set by the relevant agencies, persons or professional bodies.

(5) The parts of the Framework amended under subsection (4) shall not be implemented without the approval of the Council.

(6) The Minister may make directions for any part of the Framework to be amended.

**Objectives of Framework**

22. The objectives of the Framework include the following —

(a) to secure standards of qualifications and reinforce policies on quality assurance;

(b) to promote accuracy or consistency of nomenclature of qualifications;

(c) to provide mechanisms for the progression or inter-relation between qualifications, including non-degree and degree qualifications;

(d) to encourage collaboration between public and private sector higher education providers and skills training providers;

(e) to encourage parity of esteem among academic, professional, technical, vocational and skills qualifications;

(f) to establish a credit system to facilitate credit accumulation and transfer which is acceptable within and outside Brunei Darussalam;

(g) to provide clear and accessible public information on programmes or qualifications in higher education;

(h) to promote where applicable, the presentation of qualifications in forms that facilitate their evaluation by any person, including agencies of the Government, higher education providers, student bodies, academic staff, quality assurance and accreditation bodies, professional bodies, examination bodies and employers;

(i) to articulate links with qualifications from outside Brunei Darussalam; and

(j) to generally provide basic criteria, criteria on qualification awards, criteria on institutions and criteria on professional bodies and institutions.

### **Compliance with Framework**

**23.** (1) No programme or qualification shall be accredited unless it complies with the Framework.

(2) All higher education providers conducting an accredited programme or awarding an accredited qualification or providing consultancy services on education shall comply with the Framework.

(3) The Council or, in the case of a professional programme, professional qualification or higher education provider, the relevant professional body, may direct that exemptions from the Framework or any part of the Framework may apply to any programme, qualification or higher education provider, subject to such conditions as it considers fit.

## PART 4

### ACCREDITATION

#### *Chapter 1*

#### *Programmes and qualifications under Brunei Darussalam Qualifications Framework*

### **Application for accreditation**

**24.** (1) An application by a higher education provider for the accreditation of its programme, qualification or education consultancy which complies with the Framework, other than the programme, qualification or education consultancy under Chapters 2, 4 and 5, shall be made to the Council —

(a) within a specified period; and

(b) in such form and manner,

as it may determine.

(2) Every application shall be accompanied by such documents and information as the Council may determine.

(3) The form, manner and documents required under subsections (1) and (2) may differ between different programmes or qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Council may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or such extended period as may be allowed by the Council, the application is deemed to be withdrawn without prejudice to the right of the higher education provider to submit a fresh application.

### **Power to grant or refuse accreditation**

**25.** (1) After having considered an application under section 24(1), the Council may —

(a) grant the application and issue a letter of accreditation to the higher education provider; or

(b) refuse the application, stating the grounds for refusal.

(2) Upon issue of the letter of accreditation under subsection (1)(a), the Council shall enter the particulars of the letter into the Register.

(3) For the purpose of considering an application under section 24(1), the Council may conduct an institutional audit.

### **Letter of accreditation**

**26.** (1) The letter of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) The higher education provider shall cause a copy of the letter of accreditation to be exhibited in a conspicuous place in the premises specified in the letter of accreditation.

(3) The higher education provider shall surrender the letter of accreditation to the Council within 30 days from —

(a) the date of any revocation of the letter under section 28(1); or

(b) the date of cessation of the programme.



### **Power to impose conditions**

**27.** The Council may, at the time of or at any time after issuing a letter of accreditation under section 25(1)(a), impose such conditions as it may consider necessary or expedient and may amend any such conditions or impose additional conditions.

### **Revocation of accreditation**

**28.** (1) Subject to this section, the Council may, at any time, revoke the letter of accreditation issued to a higher education provider under section 25(1)(a) —

(a) if the higher education provider has failed to comply with the Framework or any part of it; or

(b) if the higher education provider has breached any condition attached to the letter of accreditation.

(2) A written notice of the intention to revoke the letter of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within 30 days from the date of the notice in subsection (2).

(4) After the expiry of the period of 30 days and after considering any representation made under subsection (3), the Council shall —

(a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Council within a specified period; or

(b) revoke the letter of accreditation.

(5) If the higher education provider fails to rectify the situation as required under subsection (4)(a), the Council may proceed to revoke the accreditation.

(6) Where the letter of accreditation has been revoked, the Council shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

*Chapter 2**Professional programmes and professional qualifications***Application for accreditation**

29. (1) An application by a higher education provider for the accreditation of its local or foreign professional programme or professional qualification which complies with the Framework shall be made to the Council —

(a) within the specified period; and

(b) in such form and manner,

as it may determine.

(2) Every application shall be accompanied by such documents and information as the Council may determine and by such fees as may be prescribed.

(3) The form, manner, documents and fees required under subsections (1) and (2) may differ as between different professional programmes or professional qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Council, in consultation with the sub-committee established under section 30, may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Council, the application is deemed to be withdrawn without prejudice to the right of the higher education provider to submit a fresh application.

(6) The Council shall refer an application under this section to the sub-committee which shall then make recommendation to the relevant professional body under section 31(1) for the purposes of accreditation.

### **Sub-Committee**

**30.** (1) A sub-committee consisting of representatives from the relevant professional body, an officer of the Secretariat and such other persons as may be considered necessary by the relevant professional body shall be established by the relevant professional body for the purpose of —

(a) considering an application for accreditation under section 29(1);

(b) making recommendations to grant or refuse the application for accreditation under section 31(1);

(c) making recommendations for imposing conditions under section 33;

(d) entering and conducting an institutional audit under section 31(3); and

(e) making recommendations for the revocation of accreditation under section 34.

(2) The representatives of the relevant professional body and the officer of the Council in the sub-committee established under subsection (1) may differ as between different professional programmes or professional qualifications.

### **Power to grant or refuse accreditation**

**31.** (1) After having considered the recommendation of the sub-committee under section 30, the Council may —

(a) approve the granting of accreditation; or

(b) refuse the granting of accreditation, stating the grounds for refusal.

(2) Where accreditation is granted under subsection (1)(a), the Council shall issue a letter of accreditation to the higher education provider and shall enter the particulars of the letter into the Register.

(3) For the purpose of considering an application under section 29(1), any officer of the Secretariat may conduct an institutional audit if authorised by the Council to do so.

### **Letter of accreditation**

**32.** (1) The letter of accreditation shall specify the professional programme and state the premises in which the professional programme shall be conducted or facilitated.

(2) The higher education provider shall cause a copy of the letter of accreditation to be exhibited in a conspicuous place in the premises specified in the letter of accreditation.

(3) The higher education provider shall surrender the letter of accreditation to the Council within 30 days from —

- (a) the date of revocation of the letter under section 34(1); or
- (b) the date of cessation of the professional programme.

### **Power to impose conditions**

**33.** The relevant professional body may, upon recommendation of the sub-committee at the time of or at any time after a letter of accreditation has been issued under section 31(2), impose such conditions as it may consider necessary or expedient and may amend any such conditions.

### **Revocation of accreditation**

**34.** (1) Subject to this section, the relevant professional body may, upon recommendation of the sub-committee, at any time, withdraw the approval for accreditation granted to a higher education provider under section 31(1)(a) and the Council shall thereupon revoke the letter of accreditation —

- (a) if the higher education provider fails to comply with the Framework or any part of it; or
- (b) if the higher education provider breaches any condition for which the accreditation has been granted.

(2) A written notice of the intention to withdraw the approval and to revoke the letter of accreditation under subsection (1) shall be served by the Council, upon the direction of the relevant professional body, on the higher education provider and shall specify the grounds for such withdrawal and revocation.

(3) The higher education provider shall be given an opportunity to make written representations within 30 days from the date of the notice in subsection (2).

(4) After the expiry of the period of 30 days stated in subsection (3) and after considering any representation made under that subsection, the relevant professional body upon recommendation of the sub-committee shall —

(a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the relevant professional body within a specified period; or

(b) withdraw the approval for accreditation.

(5) If the higher education provider fails to rectify the situation as required under subsection (4)(a), the Council may, upon the decision of the relevant professional body, proceed to revoke the letter of accreditation.

(6) Where the letter of accreditation has been revoked, the Council shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

### *Chapter 3*

#### *Foreign programmes and qualifications*

#### **Application for accreditation**

**35.** (1) An application by a higher education provider for the accreditation of a foreign programme or qualification and joint and collaborative qualifications, other than a programme or qualification under Chapters 2 and 5, shall be made to the Council —

(a) within a specified period; and

(b) in such form and manner,

as it may determine.

(2) Every application shall be accompanied by such documents and information as the Council shall determine and by such fees as may be prescribed.

(3) The form, manner, documents, information and fees required under subsections (1) and (2) may differ between different programmes or qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Council may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Council, the application is deemed to be withdrawn without prejudice to the right of the higher education provider to submit a fresh application.

### **Power to grant or refuse accreditation**

**36.** (1) After having considered an application under section 35(1), the Council may —

(a) grant the application and issue a letter of accreditation to the higher education provider; or

(b) refuse the application, stating the grounds for refusal.

(2) Upon issue of the letter of accreditation under subsection (1)(a), the Council shall enter the particulars of the certificate into the Register.

(3) For the purpose of considering an application under subsection 35(1), the Council may conduct an institutional audit.

### **Letter of accreditation**

**37.** (1) The letter of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) In the case of a foreign programme or qualification, the Council may specify in the letter of accreditation the programme or qualification as being equivalent to a programme or qualification in the Framework.

(3) The higher education provider shall cause a copy of the letter of accreditation to be exhibited in a conspicuous place in the premises specified in the letter of accreditation.

(4) The higher education provider shall surrender the letter of accreditation to the Council within 30 days from —

(a) the date of any revocation of the letter under section 39; or

(b) the date of cessation of the programme.

### **Power to impose conditions**

**38.** The Council may, at the time of or at any time after issuing a letter of accreditation under section 36(1)(a), impose such conditions as it may consider necessary or expedient and may amend any such conditions.

### **Revocation of accreditation**

**39.** (1) Subject to this section, the Council may, at any time, revoke the letter of accreditation granted to a higher education provider under section 36(1)(a) if the higher education provider breaches any condition attached to the letter of accreditation.

(2) A written notice of the intention to revoke the letter of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within 30 days from the date of the notice in subsection (2).

(4) After the expiry of the period of 30 days stated in subsection (3) and after considering any representation made under subsection (3), the Council shall —

(a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Council within a specified period; or

(b) revoke the letter of accreditation.

(5) If the higher education provider fails to rectify the situation as required under subsection (4)(a), the Council may proceed to revoke the letter of accreditation.

(6) Where the letter of accreditation has been revoked, the Council shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

#### *Chapter 4*

#### *Self-accrediting higher education providers*

#### **Application for self-accreditation status on invitation**

**40.** (1) Upon an invitation of the Minister, an application by a higher education provider for self-accreditation status may be made to the Council in such form and manner as may be prescribed.

(2) The Council, after having considered an application under subsection (1) and conducted an institutional audit, may grant the application and issue a letter of self-accreditation status to the higher education provider.

(3) The Council may, at the time of or at any time after issuing a letter of self-accreditation status under subsection (2), impose such conditions as it may consider necessary or expedient and may amend any such conditions or impose new conditions.

(4) This Chapter does not apply to any professional programme or professional qualification referred to in Chapter 2.

#### **Registering programmes or qualifications**

**41.** (1) A self-accrediting higher education provider may apply to the Council for the registration of any programme or qualification in such form and manner as the Council may determine.

(2) The Council, upon receiving an application under subsection (1), may conduct an institutional audit and may register in the Register the programme or qualification.



(3) The Council, in registering a programme or qualification, may impose such conditions as it may consider necessary or expedient and may amend any such conditions or impose new conditions.

(4) Upon registering the programme or qualification in the Register the Council shall issue a letter of accreditation.

### **Letter of self-accreditation and letter of accreditation**

**42.** (1) The letter of accreditation shall specify the programme and state the premises in which the programme is to be conducted or facilitated.

(2) In the case of a foreign programme or qualification, the Council may specify in the letter of accreditation the programme or qualification as being equivalent to a programme or qualification in the Framework.

(3) The higher education provider shall cause a copy of the letter of self-accreditation and the letter of accreditation to be exhibited in a conspicuous place in the premises specified in the letter of self-accreditation and the letter of accreditation, as the case may be.

(4) The self-accrediting higher education provider shall surrender the letter of self-accreditation or the letter of accreditation to the Council within 30 days from —

(a) the date of any revocation of the letter of self-accreditation under section 43(1) or the cancellation of registration under section 43(2); or

(b) the date of cessation of the self-accreditation higher education provider or the programme.

### **Revocation of self-accreditation status or cancellation of registration**

**43.** (1) Subject to this section, the Council may, at any time, revoke the letter of self-accreditation status issued to a self-accrediting higher education provider under section 40(2) if the higher education provider breaches any condition attached to the letter of accreditation.

(2) The Council may, at any time, cancel the registration of any programme or qualification registered under section 41(2) if the self-accrediting higher education provider fails to comply with the

requirements of the registered programme or qualification under that subsection.

(3) A written notice of the intention to revoke the letter of accreditation or cancel the registration of any programme or qualification shall be served on the self-accrediting higher education provider and shall specify the grounds for such revocation.

(4) The self-accrediting higher education provider shall be given an opportunity to make written representations within 30 days from the date of the notice in subsection (3).

(5) After the expiry of the period of 30 days and after considering any representation made under subsection (4), the Council shall —

(a) issue a warning and give directions for the self-accrediting higher education provider to rectify the situation to the satisfaction of the Council within a specified period; or

(b) revoke the letter of self-accreditation or cancel the registration of the programme or qualification, as the case may be.

(6) If the self-accrediting higher education provider fails to rectify the situation as required under subsection (5)(a), the Council may revoke the letter of self-accreditation or cancel the registration of the programme or qualification, as the case may be.

(7) Where the letter of self-accreditation has been revoked or the registration of any programme or qualification has been cancelled, the Council shall enter the date of such revocation into the Register and shall give notice of such cancellation revocation to the relevant authority.

## *Chapter 5*

### *Accreditation of programmes, courses and qualifications provided by Local Private Higher Education Institutions*

#### **Application for accreditation**

44. (1) An application by a higher education provider for the accreditation of any qualifications which complies with the Framework and leading to the award of —

- (a) a degree; or
- (b) a diploma, advanced diploma or Higher National Diploma; or
- (c) a certificate other than the General Certificate of Examinations 'O' and 'A' level or its equivalent,

shall be made to the Council —

- (i) within a specified period; and
- (ii) in such form and manner,

as it may determine.

(2) Every application shall be accompanied by such documents and information as the Council may determine.

(3) The form, manner, documents and information required under subsections (1) and (2) may differ between different programmes or qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Council may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Council, the application shall be withdrawn without prejudice to the right of the higher education provider to submit a fresh application.

### **Power to grant or refuse accreditation**

**45.** (1) After having considered an application under section 44(1), the Council may —

- (a) grant the application; or
- (b) refuse the application, stating the grounds for refusal.

(2) The Council may, in considering and determining an application under section 44(1), seek the assistance of any regulatory body regulating the skills development or any body or association monitoring the particular skills development.

(3) Where the application for accreditation of any programme or qualification has been granted under subsection (1)(a), the Council shall issue a letter of accreditation to the higher education provider.

(4) The Council shall enter the particulars of the letter of accreditation issued under subsection (3) into the Register.

(5) For the purpose of considering an application under section 44(1), the Council may conduct an institutional audit in the form of continuous monitoring process and site visits.

### **Letter of accreditation**

**46.** (1) The letter of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) In the case of a foreign programme or qualification, the Council may specify in the letter of accreditation the programme or qualification as being equivalent to a programme or qualification in the Framework.

(3) The higher education provider shall cause a copy of the letter of accreditation to be exhibited in a conspicuous place in the premises specified in the letter of accreditation.

(4) The higher education provider shall surrender the letter of accreditation to the Council within 30 days from —

(a) the date of any revocation of the letter of accreditation under section 48; or

(b) the date of cessation of the programme.

### **Power to impose conditions**

**47.** The Council or, in the case of a professional programme or professional qualification, the relevant professional body may at the time of or at any time after issuing a letter of accreditation under section 45(3),

impose such conditions as it may consider necessary or expedient and may amend any such conditions or impose new conditions.

### **Revocation of accreditation**

**48.** (1) Subject to this section, the Council may, at any time, revoke the letter of accreditation granted to a higher education provider under section 45(3) —

(a) if the higher education provider fails to comply with the Framework; or

(b) if the higher education provider breaches any condition attached to the letter.

(2) A written notice of the intention to revoke the letter of accreditation shall be served on the higher education provider and shall specify the grounds for such revocation.

(3) After the expiry of the period of 30 days, the Council shall revoke the letter of accreditation.

(4) Where the letter of accreditation has been revoked, the Council shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

## *Chapter 6*

### *Prior learning and credit transfer*

#### **Application for accreditation**

**49.** (1) An application by a higher education provider for the accreditation of the criteria and procedures for the recognition of a person's prior learning and for credit transfer between accredited programmes or accredited qualifications shall be made to the Council in such form and manner as it may determine.

(2) Every application shall be accompanied by such documents and information as the Council may determine.

(3) The form, manner, documents and information required under subsections (1) and (2) may differ as between different experience, learning and credit transfer.

(4) At any time after receiving an application for accreditation and before it is determined, the Council may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Council, the application shall be withdrawn without prejudice to the right of the higher education provider to submit a fresh application.

(6) In this section, “prior learning” means knowledge, skills or attitudes previously acquired and includes prior experience.

#### **Power to grant or refuse accreditation**

**50.** (1) Upon considering an application under section 49(1) other than for credit transfer between accredited professional programmes or accredited professional qualifications, the Council may —

(a) grant the application and issue a letter of accreditation to the higher education provider; or

(b) refuse the application, stating the grounds for refusal.

(2) The Council shall enter the particulars of the letter of accreditation into the Register.

(3) For the purpose of considering an application under section 49(1), the Council may conduct an institutional audit.

(4) The provisions of Chapter 2 apply *mutatis mutandis* for the credit transfer between accredited professional programmes or accredited professional qualifications.

### **Power to impose conditions**

**51.** The Council may, at the time of or any time after issuing a letter of accreditation under section 50(1)(a) impose such conditions as it may consider necessary or expedient and may amend any such conditions or impose new conditions.

### **Revocation of accreditation**

**52.** (1) Subject to this section, the Council may, at any time, revoke the letter of accreditation granted to a higher education provider under section 50(1)(a) —

(a) if the higher education provider fails to comply with the Framework; or

(b) if the higher education provider breaches any condition attached to the letter of accreditation.

(2) A written notice of the intention to revoke the letter of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within 30 days from the date of the notice served under subsection (2).

(4) After the expiry of the period of 30 days and after considering any representation made under subsection (3), the Council shall —

(a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Council within a specified period; or

(b) revoke the letter of accreditation.

(5) If the higher education provider fails to rectify the situation as required under subsection (4)(a), the Council may revoke the letter of accreditation.

(6) Where the letter of accreditation has been revoked, the Council shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

## PART 5

## EVALUATION OF OTHER QUALIFICATIONS

**Application for equivalent evaluation**

**53.** (1) Any person may apply to the Council for an evaluation of a qualification of a higher education provider or programme conducted within or outside Brunei Darussalam to be certified as being equivalent to a qualification in the Framework.

(2) An application under subsection (1) shall be in such form and manner as the Council may determine.

(3) Every application shall be accompanied by such documents and information as the Council may determine.

**Evaluation**

**54.** (1) Upon receiving an application under section 53(1), the Council or in the case of a professional programme or professional qualification, the relevant professional body, shall evaluate the programme or qualification and may certify it as being equivalent to a qualification in the Framework.

(2) For the purpose of evaluation under subsection (1), the Council or the relevant professional body, as the case may be, may —

(a) require any person to furnish it with such information and particulars as it may require to determine the application;

(b) collaborate, cooperate or coordinate with any person, including the agencies of the Government, higher education providers, examination bodies, student bodies, academic staff, quality assurance and accreditation bodies, professional bodies and employers; and

(c) establish a committee for the purpose of considering, verifying and making recommendations on the application.

(3) Where the Council or the relevant professional body, as the case may be, certifies the programme or qualification as being equivalent to a qualification in the Framework, the Council shall issue a letter of equivalence, in the form as it may determine, to the applicant.



(4) No action shall lie against the Council, its members, the relevant professional body, the secretary or against any public officer of the Secretariat where a letter of equivalence issued under subsection (3) is not accepted for purposes of employment or for entry into further education.

## PART 6

### INSTITUTIONAL AUDIT

#### **Institutional audit**

**55.** (1) For the purposes of this Act, the Council may establish institutional audit committees consisting of persons who possess special knowledge and experience in matters relating to institutional audit to carry out institutional audits.

(2) An institutional audit shall be carried out in accordance with the procedure determined by the Council.

(3) The composition of the institutional audit committees and the procedure on institutional audits may differ according to the purpose of the institutional audit.

## PART 7

### BRUNEI DARUSSALAM QUALIFICATIONS REGISTER

#### **Brunei Darussalam Qualifications Register**

**56.** (1) The Council shall establish and maintain a register known as the Brunei Darussalam Qualifications Register in such form and manner as the Council may determine containing the programmes, qualifications and higher education providers accredited under this Act.

(2) The Register shall be the national reference for standards and articulation point for all accredited programmes, qualifications and institutions.

(3) The Council shall make the Register available for public inspection subject to such conditions as it thinks fit.

- (4) Any person may on payment of a prescribed fee —
- (a) inspect the Register; and
  - (b) make a copy of, or take extracts from, the Register.

## PART 8

### APPEALS

#### **Appeals**

**57.** (1) Subject to subsection (2), any higher education provider who is aggrieved by —

(a) the refusal of the Council to grant a letter of accreditation under Part 4; or

(b) the revocation of letter of accreditation under Part 4,

may appeal in writing to the Minister within 30 days from the date on which the refusal or revocation was served on the higher education provider.

(2) Any higher education provider who is aggrieved by —

(a) the refusal of the relevant professional body to grant an accreditation in respect of a professional programme or professional qualification under Chapter 2 of Part 4; or

(b) the revocation of letter of accreditation in respect of a professional programme or professional qualification under Chapter 2 of Part 4,

may appeal in writing to an Appellate Committee within 30 days from the date the refusal or revocation is served on the higher education provider.

(3) In this Part, “Appellate Committee” means a body of persons consisting of such number of representatives appointed by the relevant professional body and an officer of the Council.

### **Power of Minister or Appellate Committee on appeals**

**58.** (1) The Minister or the Appellate Committee, as the case may be, may, on an appeal being made under section 57, confirm, revoke or vary the decision appealed upon.

(2) The results of an appeal shall be communicated in writing to the Council and the person making the appeal.

### **Decision of Minister or Appellate Committee on appeals**

**59.** The decision of the Minister or Appellate Committee, as the case may be, on an appeal is final.

## PART 9

### ENFORCEMENT AND INVESTIGATION

#### **Authorised officer**

**60.** For the purposes of this Act or any regulations made under this Act, the Minister may appoint any officer as an authorised officer to perform such duties relating to enforcement and investigation under this Act as may be specified in the authorisation.

#### **Power to investigate etc.**

**61.** An authorised officer or a police officer not below the rank of Inspector shall, if duly authorised, have the power to —

(a) investigate any offence under this Act or any regulations made thereunder;

(b) conduct any inquiry under this Act or any regulations made thereunder; and

(c) enforce any provision of this Act or any regulations made thereunder this Act.

**Powers of examination**

**62.** (1) An authorised officer may, by notice in writing, require any person acquainted with the facts and circumstances of a case to appear before him and to be examined orally and shall reduce into writing any statement made by the person so examined.

(2) Any statement made by any person under this section shall be admissible as evidence in any proceedings in court under this Act or any regulations made thereunder against that person or against any other person.

**Production of documents etc.**

**63.** (1) In the course of an investigation or examination under this Act or any regulations made thereunder the authorised officer may —

(a) require any such person to produce to him such document or other article in the physical form or in the electronic medium; and

(b) inspect, make copies of, take extracts from, remove and detain any such document or other article.

(2) An authorised officer may grant permission to any person, as may be necessary, to inspect any document or other article in the physical form or in the electronic medium detained and taken possession of by the authorised officer.

**Seizure of documents etc.**

**64.** Where an authorised officer carrying out an investigation under this Act or any regulations made thereunder has reason to believe that an offence has been committed against this Act or any regulations made thereunder, he may seize any document or other article in the physical form or in the electronic medium, produced under section 63(1) and such document or other article shall be admissible in evidence in any proceedings in court under this Act or any regulations made thereunder against that person or against any other person.

**Application for search warrant**

**65.** If an authorised officer has reasonable cause to believe that any premises has been used, are being used or are about to be used for, or there is in any premises evidence necessary to establish the commission of an

offence under this Act or any regulations made thereunder, he may apply to a magistrate by way of written information on oath for a search warrant.

### **Power of magistrate to issue search warrant**

**66.** If the magistrate is satisfied that there is a commission of an offence under any provision of this Act or any regulations made thereunder, he may issue a search warrant authorising the authorised officer, at any reasonable time and with or without assistance —

(a) to enter any premises, if need be by force, that have been used or are about to be used for the commission of an offence under this Act or any regulations made thereunder;

(b) to search for and seize, and to remove any document or other article in the physical form or in the electronic medium —

(i) in respect of which an offence has been committed;

(ii) in respect of which an offence is suspected to have been committed; or

(iii) that is reasonably believed to furnish evidence of the commission of the offence; or

(c) to detain every person found in the premises until it has been searched.

### **Search and seizure without warrant**

**67.** If an authorised officer has reasonable cause to believe that, by reason of delay in obtaining a search warrant under section 66 —

(a) the investigation would be adversely affected;

(b) the object of the entry is likely to be frustrated;

(c) the document or other article sought may be removed or interfered with; or

(d) the evidence sought may be tampered with or destroyed,

he may exercise in, and in respect of, the premises of any higher education provider all the powers referred to in section 66 in the same manner as if he was authorised to do so by a warrant issued under that section.

### **Production of authority card**

**68.** (1) An authorised officer when exercising any powers under this Act or any regulations made thereunder shall declare his office and shall produce to the person against whom he is acting or from whom he seeks any information, such authority card as the Minister may direct to be carried by him.

(2) The authority card referred to in subsection (1) shall be issued by the Minister.

### **No costs or damages arising from seizure to be recoverable**

**69.** No person shall, in any proceedings before any court in respect of anything seized or detained in the exercise or the purported exercise of any power conferred under this Act or any regulations made thereunder, be entitled to the costs of such proceedings or any damages or other relief, other than an order for the return of such thing seized or detained, or the payment of its value unless such seizure or detention was made without reasonable cause.

## **PART 10**

### **OFFENCES AND PENALTIES**

#### **Enrolment of students for programme claimed to be accredited**

**70.** Any person who enrolls students for a programme claimed to be an accredited programme without a letter of accreditation, letter of self-accreditation or letter of equivalence, as the case may be, is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 2 years or both.

#### **Prohibition on advertisement etc.**

**71.** (1) No person shall hold himself out to be or promote a higher education provider as a higher education provider providing accredited programmes or granting accredited qualifications, whether by advertisement,

prospectus, brochure or otherwise, unless the higher education provider is accredited under this Act.

(2) No person shall promote a programme as an accredited programme, whether by advertisement, prospectus, brochure or otherwise, unless the programme has been accredited under this Act.

(3) Any person who contravenes subsections (1) and (2) is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 3 years or both.

### **Offences and penalties relating to higher education qualification**

72. Any person, being a person who has not been granted accreditation under this Act, issues or awards any higher education qualification claimed to be complying with the Framework is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 3 years or both.

### **Offences and penalties relating to applications made under Act**

73. Any higher education provider which, on making an application for accreditation or any person making a request for evaluation under this Act, makes any statement which it or he knows to be false, or does not believe to be true, or intentionally suppresses any material fact, or furnishes any information which is misleading in any material particular is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

### **Offences and penalties relating to letters of accreditation**

74. (1) Where any higher education provider —

(a) fails to cause a copy of the letter of accreditation to be exhibited in accordance with this Act;

(b) that has ceased to provide programmes fails to surrender the letter of accreditation to the Council in accordance with this Act; or

(c) upon the revocation of a letter of accreditation and fails to surrender the letter of accreditation to the Council in accordance with this Act,

such higher education provider is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

(2) Any person who is in possession of any false letter of accreditation is guilty of an offence and liable on conviction to a fine not less than \$20,000, imprisonment for a term not less than one year but not exceeding 3 years or to both.

### **Offences relating to inspection, enforcement and investigation**

75. Any person —

(a) who fails to produce such document, material or other article in the physical form or in the electronic medium required by the authorised officer under this Act; or

(b) who obstructs or refuses to allow the authorised officer under this Act to —

- (i) enter any area including the building or structure thereon which belongs to or is used, whether permanently or otherwise, or whether or not registered for use, by a higher education provider;
- (ii) examine such document, material or other article in the physical form or in the electronic medium, as he may consider necessary;
- (iii) remove and detain any document, material or other article in the physical form or in the electronic medium which, in his opinion, may furnish evidence of the commission of an offence under this Act or any regulations made thereunder; or
- (iv) require any person, being a member of the Council, a chief executive, an officer or an employee of such higher education provider, to produce for his inspection any document, material or other article in the physical form or in the electronic medium, which is in the possession or custody of the person or under his control or within his power to furnish relating to management of the higher education provider or to the programmes carried on by the higher education provider;



(c) who is summoned under section 62 and without reasonable excuse fails to attend at the time and place mentioned in the summons, or who, having attended, refuses to answer any question that may lawfully be put to him;

(d) who fails to produce such document, material or other article in the physical form or in the electronic medium, required by the authorised officer under section 63; or

(e) who obstructs or hinders an authorised officer while exercising any of his powers under Part 9,

is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

## PART 11

### GENERAL

#### **Institution of prosecution**

**76.** No prosecution for or in relation to any offence under this Act or any regulations made thereunder shall be instituted except by or with the written consent of the Public Prosecutor.

#### **Jurisdiction of Courts of Magistrates**

**77.** Notwithstanding anything contained in any written law to the contrary, the Court of a Magistrate shall have the jurisdiction to try any offence under this Act or any regulations made thereunder and to award the full punishment for any such offence.

#### **Offences by body corporate etc.**

**78.** (1) Where an offence under this Act or any regulations made thereunder which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of that body, or of any person purporting to act in any such capacity, he, as well as the body corporate, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where a partnership is guilty of an offence against this Act or any regulations made thereunder, every partner, other than the partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of an offence and liable to be proceeded against and punished accordingly.

(3) In relation to a body corporate whose affairs are managed by its members, “director”, in subsection (1), means any member of that body corporate.

### **Compounding of offences**

**79.** (1) The Council may compound any offence committed by any person against this Act or any regulations made thereunder which has been prescribed to be a compoundable offence by collecting from the person reasonably suspected of having committed that offence a sum of money not exceeding one half of the amount of maximum fine prescribed for that offence.

(2) On payment of such sum of money, no further proceedings should be taken against that person in respect of that offence.

### **Penalty for offences not otherwise provided for**

**80.** Any person who is guilty of an offence against this Act or any regulations made thereunder for which no penalty is expressly provided is liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 2 years or both.

### **Penalty in case of continuing offence**

**81.** Any person who is guilty of an offence under this Act or any regulations made thereunder shall, in the case of a continuing offence, be liable, in addition to any other penalty to which he is liable under this Act or any regulations made thereunder in respect of such offence, to a daily fine not exceeding \$1,000 for each day the offence continues after conviction.

### **Presumption**

**82.** In any proceeding for an offence under this Act or any regulations made thereunder when it has been proven that any application, information, particular, document or statement, whether written or not, is —

(a) false or incorrect in whole or in part; or

(b) misleading in any material particular,

it shall be presumed until the contrary is proved that such application, information, particular, document or statement is false or incorrect in whole or in part or misleading in any material particular, as the case may be, to the knowledge of the person signing, delivering or supplying it.

### **Public servant**

**83.** Every member of the Council or any of its committees, any officer or agent of the Council and any member of the committees and the sub-committees while discharging his duties or performing his functions or exercising his power under this Act or any regulations made thereunder is deemed to be a public servant within the meaning of the Penal Code (Chapter 22).

### **Protection against suit and legal proceedings**

**84.** No action shall lie or prosecution shall be brought, instituted or maintained against —

(a) the Council, any member of its committees or any officer or staff of the Secretariat;

(b) the Council, any member of the Council, or any member of any of its committees:

(c) the Sub-Committees or any of its member; or

(d) any person lawfully acting on behalf of the Council,

in respect of any act, neglect or default done or committed by him or it in good faith in the exercise, performance or purported exercise or performance of his duties, functions and powers under this Act.

### **Obligation of secrecy**

**85.** (1) Except for any of the purposes of this Act and for the purposes of any civil or criminal proceedings under any written law, no member of the Council, officer or staff of the Council shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

### **Power to exempt**

**86.** The Minister may, other than in respect of professional programmes and professional qualifications, by order published in the *Gazette* exempt, subject to such conditions as he may deem fit to impose —

- (a) any higher education provider duly registered under any other written law;
- (b) any person or class of persons; or
- (c) any higher education provider,

from all or any of the provisions of this Act or any regulations made thereunder.

### **Regulations**

**87.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to or for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for —

- (a) prescribing the manner of applying for provisional accreditation or accreditation under this Act, the particulars to be supplied by an applicant, the manner of accreditation and the conditions to be imposed;
- (b) prescribing the forms for the purposes of this Act;
- (c) prescribing the fees and charges payable under this Act and the manner for collecting and disbursing such fees and charges;
- (d) prescribing the records and documents to be kept and the returns to be submitted;

(e) prescribing the offences which may be compounded and the method and procedure thereof;

(f) providing for the regulation of all or any of the activities of the Council and generally the performance of the functions, the exercise of the powers and the discharge of the duties of the Council under this Act; and

(g) providing for such other matters required to be or which may be prescribed or which are necessary for giving effect to the provisions of this Act and for their due administration.

(3) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.