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GOVERNMENT NOTICE

DEPARTMENT OF EDUCATION

No. 335

28 February 2003

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

The Minister of Education, after consultation with the Council on Higher Education, has in terms of section 53(1)(c) read with section 69 of the Higher Education Act, 1997 (No 101 of 1997), published the Annexures to the Regulations.



DEPARTMENT OF EDUCATION

REGULATIONS FOR THE REGISTRATION OF
PRIVATE HIGHER EDUCATION INSTITUTIONS

A GUIDE FOR COMPLETING THE APPLICATION
FOR REGISTRATION AS A PRIVATE HIGHER
EDUCATION INSTITUTION

(APX-01)

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VISION, MISSION AND MANDATE OF THE DEPARTMENT OF EDUCATION

VISION

Our vision is of a South Africa in which all our people have access to lifelong education and training opportunities, which will in turn contribute towards improving quality of life and building a peaceful, prosperous and democratic society.

MISSION

To provide leadership in the construction of a South African education and training system for the 21st century.

MANDATE

The vision for the transformation of the higher education system is articulated in *White Paper 3: A Programme for the Transformation of Higher Education (1997)*. Central to this vision is the building of a rational, seamless higher education system that grasps the intellectual and professional challenges facing South Africans in the 21st century, and meets the learning needs of individuals and the development needs of our society and economy.

The building of such a system necessitates, among other things, the promotion of quality teaching and research, not only in public universities and technikons, but also in privately established institutions of higher learning. It is primarily for this reason that the Higher Education Act, 1997 (Act No. 101 of 1997) (hereafter referred to as "the Act"), makes it a requirement for private institutions offering higher education to register with the Department of Education (DoE).

The registration of private higher education institutions, in accordance with the Act, applies only to institutions that offer learning programmes that result in the awarding of whole qualifications such as certificates, diplomas or degrees at levels 5 to 8 of the National Qualifications Framework (NQF). Registration, as required by the Act, means that an institution is granted the legal authority to offer accredited higher education programmes and qualifications. This requirement applies to all private institutions, be they local or foreign.

The aim of registering these institutions is to ensure that -

- a) all registered private higher education institutions offer an acceptable quality of education;
- b) current and prospective students receive higher education from institutions that have the resources, capacity and/or expertise to deliver quality programmes;
- c) the public obtains qualifications that are aligned with the National Qualifications Framework; and
- d) the education system continues on a path of transformation in accordance with government policy and regulation.

Registration can, therefore, be seen as a means of protecting the integrity of the higher education system and the interests of the public.

Chapter 7 of the Act deals specifically with private higher education institutions. The *Regulations for the Registration of Private Higher Education Institutions, 2002*, of which this guide and the application form are an appendix, provide the legal framework within which the Registrar of Private Higher Education Institutions is required to regulate the registration of private higher education institutions in terms of the Act.

ACRONYMS USED IN THE GUIDE AND APPLICATION FORM

ABET	Adult Basic Education and Training
CHE	Council on Higher Education
CIPRO	Companies and Intellectual Property Registration Office
DoE	Department of Education
FET	Further Education and Training
FTE	Full-time equivalent
GAAP	Generally Accepted Accounting Practice
GET	General Education and Training
HEQC	Higher Education Quality Committee
NQF	National Qualifications Framework
PAAB	Public Accountants' and Auditors' Board
SAAS	South African Auditing Standards
SAICA	South African Institute of Chartered Accountants
SAQA	South African Qualifications Authority

APPLICATION TYPES

Regulations 3, 4 and 5 stipulate the following:

i) **Application for registration**

Any person intending to establish and maintain a private higher education institution must complete an Application for Registration as a Private Higher Education (Form APX-01) and submit it to the registrar at least 18 (eighteen) months before the institution commences its operations.

ii) **Application for amendment**

An institution wishing to amend its registration or provisional registration in terms of section 58 of the Act must complete an Application for Amendment (Form APX-02) and submit it to the registrar at least 12 (twelve) months before the proposed amendment comes into effect.

iii) **Application for conversion**

An institution wishing to have its provisional registration converted to registration in terms of section 54(1)(c) of the Act must complete an Application for Conversion (Form APX-03) and submit it to the registrar by the date determined by the registrar.

IMPORTANT CONSIDERATIONS FOR LODGING THE APPLICATION FOR REGISTRATION

This guide and the accompanying application form must be used when a private institution applies for registration as a private higher education institution.

Private institutions seeking registration should contact the DoE to discuss their eligibility to register in terms of the Act. For an application to be considered for registration, the applicant must -

- a) propose to offer higher education as contemplated in section 1 of the Act; and
- b) have established a juristic person in terms of the *Companies Act, 1973 (Act No. 61 of 1973)* (hereafter referred to as "the Companies Act").

The requirements for registration are prescribed in the Act and operationalised in Chapter 3 of the Regulations. In terms of the Act, the registration of private higher education institutions is linked to two main criteria:

i) **Financial viability**

The applicant must provide proof in the application that its income is or will be sufficient to sustain its programmes in an acceptable manner and that it has, or will have, a stable financial position that will enable it to maintain operational continuity.

The applicant must also submit proof that it has established financial surety or guarantees to ensure that it meets its obligations to its enrolled students.

ii) **Institutional and programme accreditation**

The applicant must propose to offer only programmes leading to qualifications that are registered on the NQF. The application to the DoE must be supported by an application for institutional and programme accreditation by the HEQC, a permanent committee of the CHE established in terms of section 4 of the Act. On applying for registration, an applicant must provide proof that an application for accreditation has been lodged with the HEQC.

Private institutions wishing to discuss accreditation should contact the HEQC directly at:

*The Executive Director: Quality Assurance
The Higher Education Quality Committee
Council on Higher Education
P O Box 13354
THE TRAMSHED
0126*

*Telephone: 012 392 9120
Facsimile: 012 392 9132*

In considering the application, the Registrar is required to consider, inter alia, the evidence provided in the application, as well as the recommendations of the HEQC on the applicant's application for accreditation. On the basis of these, the Registrar must determine whether, if registered, the applicant will maintain acceptable standards that are not inferior to those of a comparable public higher education institutions.

IMPORTANT REQUIREMENTS FOR COMPLETING THE APPLICATION FORM

This guide was developed to assist institutions who wish to apply to the DoE for registration as private higher education institutions. It is important to bear in mind that this document is only a guide and that additional information may be required to support the application.

This guide accompanies an application form (*Form APX-01*). The guide is linked to the various sections of the application form. Applicants are, therefore, strongly urged to read through the guide carefully before commencing with the completion of the application form. Applicants are also strongly advised to read the guide in conjunction with the Act and the Regulations.

When completing the application form, the following must be borne in mind:

- a) An application for registration must be lodged with the DoE at least 18 (eighteen) months before the applicant proposes to initiate operations.
- b) All sections of the form must be completed fully and in the required format and the form must be submitted to the DoE. The Registrar of Private Higher Education Institutions will not process an incomplete application or an application that does not address the items as required.
- c) All application documents must carry the date of submission to the DoE.
- d) The application documents can be accessed electronically in *Microsoft Word for Windows* on the DoE website at: http://education.gov.za/DoE_Sites/Higher_Education/Registrar. However, all applications must be submitted as hard copies.
- e) The application fee must be paid by means of a cheque made out to the DoE.
- f) Important supporting documentation in the form of listed annexures must be provided as part of the application.
- g) The application consists of the following 11 sections:

FORM

Section A: Administrative data (Items 1-6)

Section B: Company registration and governance particulars (Items 7-20)

Section C: Particulars of learning programmes (Items 21 and 22)

Section D: Projected staff and student data (Items 23-25)

Section E: Data on GET and FET programmes (Items 26-28)

ANNEXURES

Section F: Financial viability reports and legal documents (Items 29-34)

Section G: Quality assurance and monitoring (Items 35-37)

Section H: Inter-institutional agreements and marketing information (Items 38 and 39)

Section I: Admission information and student rules (Item 40)

Section J: Declaration on non-discrimination (Item 41)

Section K: Additional information to be submitted by foreign applicants only (Items 42-44)

An application checklist is provided at the end of this document to help applicants determine whether all the required information is included.

In the spaces provided on *Form APX-01*, the required information must be provided as explained per item below. Each explanation corresponds to the item on *Form APX-01*.

A. ADMINISTRATIVE DATA**ITEM 1**

Supply the legal name of the company that is applying for registration as a private higher education institution. Only companies that are registered or recognised as juristic persons in terms of the Companies Act are eligible to apply.

ITEM 2

Fill in the name, designation, telephone number, fax number and e-mail address of the authorised contact person for all correspondence to the applicant.

ITEM 3

Fill in the postal address to which all correspondence to the applicant should be mailed.

ITEM 4

Fill in the physical address and contact details of the applicant's head office. The street, number, suburb and city or town must be clearly indicated.

ITEM 5

If the physical address and contact details of the applicant's main campus are different from those of its head office, the physical address of the main campus must be indicated in the space provided.

ITEM 6

Fill in the applicant's website address.

B. COMPANY REGISTRATION AND GOVERNANCE PARTICULARS**ITEM 7**

Supply the legal name in which the applicant was established as a juristic person in terms of the Companies Act. This name should be the same as in Item 1 above.

ITEM 8

Supply (if applicable) another official trading name, abbreviation, acronym or translation under which the applicant is conducting its business or intends to conduct its business.

ITEM 9

Indicate the applicant's type of juristic person (e.g. *Private company or Association incorporated under section 21*).

ITEM 10

Fill in the company registration number as it appears on the *Certificate of Incorporation or Certificate of Registration of Memorandum of External Company*. The registration number should be written in full, e.g. 2000/123456/09.

ITEM 11

Indicate whether the applicant is a local or a foreign juristic person, as defined in section 1 of the Act.

ITEM 12

If the applicant is a foreign juristic person, indicate the country of origin.

ITEM 13

If the applicant is a foreign juristic person, please supply, in the spaces provided, the following details of the parent institution in the country of origin:

- a) Name of the parent institution
- b) Name of the head of the parent institution
- c) Postal address
- d) Physical address
- e) Telephone number
- f) Fax number
- g) E-mail address
- h) Website address

ITEM 14

This item is divided into (a) and (b).

a) In the spaces provided, the following details of the head or Chief Executive Officer of the applicant must be filled in:

- i) Name (including initials and surname)
- ii) Designation
- iii) Identity number (Passport number and citizenship if not South African)
- iv) Telephone numbers (including the cellular phone number, if available)
- v) Fax number

b) In the spaces provided, the following details of the applicant's directors must be filled in:

- i) Surname and initials
- ii) Title
- iii) Designation in the organisation
- iv) Identity number (Passport number and citizenship if not South African)

ITEM 15

Fill in the applicant's physical address and contact details to be used as *domicilium citandi et executandi* for all purposes arising out of, or in connection with, the application for registration as a private higher education institution.

ITEM 16

If applicable, give the name of the applicant's holding company, or any other organisation to which the applicant is legally, commercially or academically subordinate, or on which it is otherwise dependent, such as a trust or religious body.

ITEM 17

Indicate the relationship between the applicant and its holding company or any other organisation as defined in item 16 above.

ITEM 18

In the spaces provided, fill in the names, titles and identity numbers of the owners of the company, as reflected in the *Memorandum and Articles of Association* issued by *CIPRO*.

ITEM 19

In (a), fill in the name (of the firm) of the applicant's auditor, appointed under Chapter X of the Companies Act and registered as an auditor in terms of the *Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991)*. In (b) the auditor's practice or registration number, as issued by the PAAB, should be filled in.

ITEM 20

In this item the following details of the applicant must be filled in:

- a) Value-Added Tax registration number
- b) Income Tax number
- c) Business registration number issued by the Metropolitan Council or Local Authority in terms of the Regional Services Council Act, 1985 (Act No. 109 of 1985).

C. PARTICULARS OF LEARNING PROGRAMMES

The accreditation status of programmes with the HEQC is an important requirement of the Act for the registration of private higher education institutions. The registrar must be satisfied that

the institution will provide education of a standard not inferior to a comparable public institution, and that it will comply with the requirements of the HEQC.

ITEM 21

Details of all programmes submitted to the HEQC for accreditation as higher education programmes must be supplied in Table 01.

For the mode of instruction, please choose either (a) contact education or (b) distance education. Each mode is briefly explained below.

a) Contact education

This involves personal interaction with teachers or supervisors through lectures, tutorials, seminars, practicals and supervision, and occurs at the applicant's premises or site(s).

b) Distance education

The interaction between students and teachers or supervisors is undertaken through distance education techniques, such as correspondence or telematic education. There are a number of different forms of distance education, including:

i) Correspondence learning

Correspondence learning takes place when there is little or no face-to-face contact between the educator and the learner. The learner works independently with no support services and the learning material is usually delivered by post or electronically.

ii) Open learning

Open learning is a form of distance education, which combines face-to-face and other support services such as print materials and telematics.

ITEM 22

"Site" refers to any learning site, such as a campus, satellite campus or learning centre, controlled and administered by the applicant. All learning sites where higher education programmes are delivered must be accredited. Only accredited programmes and sites of delivery for which the applicant assumes legal and financial responsibility will be registered. In the columns provided in Table 02, the following details of the proposed sites of delivery must be supplied:

- a) The name and physical address of the site
- b) Programmes to be delivered at the site

D. PROJECTED STAFF AND STUDENT DATA

ITEM 23

In TABLE 03, the headcount staff and student totals must be supplied for the first three years of operation. The data must be supplied in the required format and according to the categories supplied. The data must be for programmes that the applicant proposes to offer as higher education programmes in accordance with the Act.

Before responding to this item, the following explanations must be taken into consideration:

a) Headcount student enrolment

A headcount student enrolment is literally a counting of heads. Students are counted as units, regardless of whether they are full-time or part-time, and regardless of the number of courses for which they are enrolled. For example, students enrolled for 20%, 50% or 100% of a full-time curriculum will all be counted as units in a headcount total.

The headcount totals reported in the tables must be **unduplicated** ones. In an unduplicated headcount enrolment total a student is counted **once only**. If a student is registered for more than one qualification, he/she must be counted only for the qualification considered by the applicant to be his/her main qualification.

b) Headcount staff totals

A headcount total of staff is literally a counting of heads. Every applicant should indicate how many of its staff are **full-time** and how many are **part-time**.

c) Academic/Research staff

These are the academic members of the applicant's staff involved in teaching and research.

d) Support staff

These are the members of staff who, either directly or indirectly, support the applicant's instructional activities. To be placed in this category are members of staff who perform functions such as academic support services, student support services, human resource management, financial management and administration.

e) Service staff

These are members of staff who perform auxiliary services, such as the operation and maintenance of the physical premises, and who work on, for example, building maintenance, garden services, custodial services and security services.

ITEM 24

In **Table 04**, the details of programmes the applicant proposes to offer as higher education programmes in accordance with the Act must be supplied. The following explanation must be taken into account before responding to this item:

NQF fields

In terms of *Government Gazette No. 20234*, of 25 June 1999, SAQA has determined the following fields and sub-fields for purposes of registering qualifications with the NQF. "Qualifications" refers to degrees, diplomas and certificates that an applicant proposes to award to students on successful completion of a programme of study. Before completing the form, it is important to check in which field your learning programme belongs.

01 Agriculture and Nature Conservation

Primary and secondary agriculture, nature conservation, forestry and wood technology, horticulture.

02 Culture and Arts

Design studies, visual and performing arts, cultural studies, music, sport, film, television and video.

03 Business, Commerce and Management Studies

Finance, economics and accounting, generic management, human resources, marketing, procurement, office and public administration, project management, public relations.

04 Communication Studies and Language

Communication and information studies, language, literature.

05 Education, Training and Development

Schooling, higher education and training, early childhood development, adult learning.

06 Manufacturing, Engineering and Technology

Engineering and related design, manufacturing and assembly, fabrication and extraction.

07 Human and Social Studies

Environmental relations, general social science, industrial and organisational governance and human resource development, people-/human-centred development, public policy, politics and democratic citizenship, religious and ethical foundations of society, rural and agrarian studies, traditions, history and legacies, urban and regional studies.

08 Law, Military Science and Security

Safety and justice in society, sovereignty of the state.

09 Health Sciences and Social Services

Preventive health, promotive health and development services, curative health, rehabilitative health services.

10 Physical, Mathematical, Computer and Life Sciences

Mathematical, physical, life, information technology and computer, earth and space and environmental sciences.

11 Services

Hospitality, tourism, travel, gaming and leisure, transport, operations and logistics, personal care, wholesale and retail, consumer services.

12 Physical Planning and Construction

Physical planning, design and management, building construction, civil engineering construction, electrical infrastructure construction.

NQF levels

While the development of level descriptors is still being finalised by SAQA, the following is a guide for purposes of completing *Form APX-01*.

NQF level 5 broadly refers to certificates and diplomas.

NQF level 6 generally includes all first degree qualifications.

NQF level 7 refers to postgraduate qualifications at honours and master's degree levels.

NQF level 8 refers to doctoral degrees.

ITEM 25

In Table 05, the details of higher education programmes for which the applicant offers support, such as tuition, on behalf of another institution must be supplied. Certifying institution refers to the institution that is responsible for issuing certificates and awarding degrees and diplomas to successful students at the end of a programme of study.

E. DATA ON GET AND FET PROGRAMMES**ITEM 26**

- a) By means of a Yes or a No, indicate whether you offer programmes in the GET band.
- b) If Yes, the registration number as an independent school or an ABET centre must be supplied. The number is assigned by the Provincial Education Department.

ITEM 27

By means of a Yes or a No, please indicate whether you offer programmes in the FET band.

ITEM 28

If applicable, the GET and FET student and staff data for the current year must be supplied in Table 06, in the required format and according to the categories indicated.

F. FINANCIAL VIABILITY REPORTS AND LEGAL DOCUMENTS

ITEM 29

ANNEXURE A(1)

Audited annual financial statements OR Audited three-year financial forecasts

a) Audited annual financial statements

An applicant that is already operating in the GET and/or FET band(s) or any other business, but wants to extend its operations to higher education, must submit its most recent audited annual financial statements for the existing business and a business plan for the proposed higher education operations. For purposes of applying for registration as a private higher education institution, the applicant's directors must prepare and submit the audited annual financial statements for the previous financial year. The preparation and presentation of the financial statements must comply with the requirements of the *Higher Education Act, 1997 (Act No. 101 of 1997)*, the *Companies Act, 1973 (Act No. 61 of 1973)* and the *Statements of GAAP*. The financial statements must include the following:

- Auditor's report
- Directors' report
- Balance sheet
- Income statement
- Cash-flow statement
- Statement of changes in equity
- Summary of accounting policies
- Notes to the financial statements

The auditor's report referred to above must comply with requirements as explained in the following section:

i) The auditor's report

In terms of the Act, the auditor's report must be issued by a **registered independent auditor**. In terms of form and content, the auditor's report must conform to the *SAAS 700* issued by the SAICA. The auditor's report must be issued on the auditor's official letterhead. In the report, the auditor must express his/her opinion on the appropriateness of the management's use of the going concern assumption in their preparation of the applicant's financial statements. In terms of section 56(1)(b) of the Act, the auditor's report must be available for public scrutiny. Further, the

auditor must indicate whether or not he/she concurs with the directors' *Financial Viability Statement* referred to below.

ii) **Directors' report**

Any matter not dealt with in the balance sheet, statement(s) of changes in equity, income statement, cash-flow statement or notes thereto, must be dealt with in the directors' report. Any post-balance-sheet event that is material to the appreciation of the financial position of the applicant, its changes in equity, and the results of its operations and cash flows must also be tabled in the directors' report.

In terms of format and content, the directors' report must comply with section 299 and *Part III of Schedule 4* of the Companies Act. It must, therefore, include, but not be limited to, the following aspects:

- *Directors and secretary*
- *Principal activities/Nature of business*
- *Directors' responsibilities*
- *Going concern assessment*
- *Operating results*
- *Dividends*
- *Review of operations*
 - o *Revenue*
 - o *Profit before tax*
 - o *Extraordinary items*
- *Share capital*
- *Post-balance-sheet events*
- *Financial viability statement*

The following verbatim statement must constitute the *Financial Viability Statement* referred to in the list above:

I hereby confirm that I have no reason to believe that (name of the applicant) is not financially capable of meeting its obligations to its students as contemplated in section 53(1)(a) of the Higher Education Act, 1997 (Act No. 101 of 1997).

The Chief Executive Officer, or an official of similar standing, must sign the directors' report.

b) **Audited three-year financial forecasts**

A new applicant who has not previously operated in any form whatsoever, must submit an audited three-year financial forecast. The three-year financial forecast must consist of the following:

- a) *Auditor's report*
- b) *Detailed assumptions*
- c) *Balance sheet*

- d) *Pro forma income statements for three years*
- e) *Pro forma cashflow statements for three years*
- f) *Explanatory notes to the financial forecasts*

aa) Detailed assumptions

These assumptions should serve as the basis for all the figures and calculations done in the pro forma statements.

bb) Balance sheet

This statement must, on analysis, be in a position to provide answers to the following questions:

- What assets does the applicant own?
- How much does the applicant intend investing in the proposed operations?
- What are the applicant's sources of funding?
- What is the proportion of debt to be incurred vis-à-vis own capital/equity?

cc) Pro forma income statements

These statements must, on analysis, be able to show all the sources of the applicant's income and the amounts to be generated from each source. They must further indicate how the applicant is to meet the following funding requirements (start-up expenditure line items):

- *Capital costs*
- *Student accommodation*
- *Laboratory and/or workshop equipment*
- *Library facility*
- *Student support services*
- *Student financial aid*
- *Research*
- *Quality assurance and quality promotion*
- *Professional fees (legal, financial, etc.)*
- *Costs for developing operational policies*
- *Systems design, purchase and implementation*
- *Promotion/Advertising/Marketing Costs*
- *Furniture*
- *Electronic equipment (teaching and learning)*
- *Vehicles*
- *Staff recruitment*
- *Staff salaries*
- *Rent*
- *Travel*
- *Recreation*

- *Telecommunications*
- *Office consumables, etc.*

dd) Pro forma cash flow statements

These statements must indicate how much, during the first three years of operation, the applicant expects to -

- *generate for/from operating activities;*
- *generate for/from investing activities; and*
- *generate for/from financing activities.*

ee) Explanatory notes

Aspects that have not been dealt with as part of *Assumptions*, should be clearly explained in this section. Where applicable, this section should include, but not be limited to, the explanation of the following:

- *Dividend policy (if any)*
- *Financing terms and conditions*
- *VAT treatment, etc.*

ITEM 30

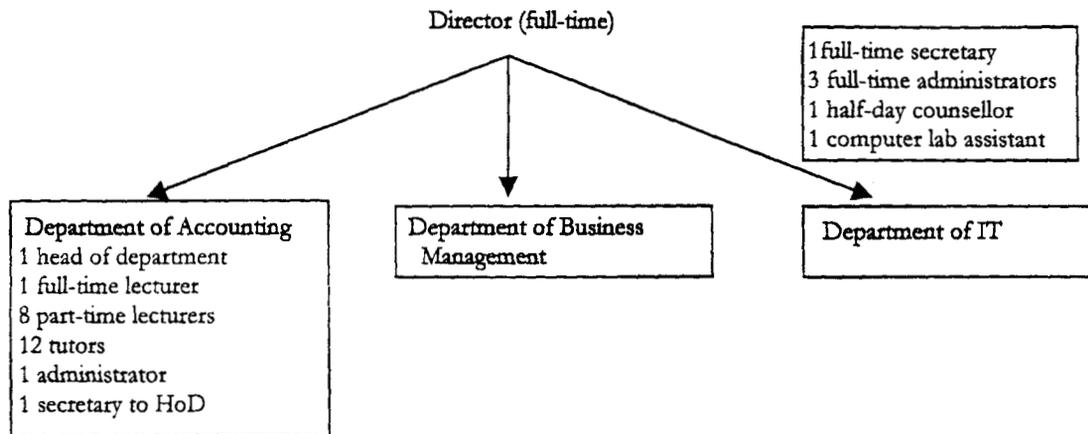
ANNEXURE A(2): Business plan

The audited three-year financial forecast or audited annual financial statements to be submitted to the Registrar of Private Higher Education Institutions must be accompanied by a detailed three-year business plan containing the following headings:

1. **Executive Summary of the Business Plan**
2. **Vision, Mission and Organisational Objectives**
 - 2.1 Vision
 - 2.2 Mission
 - 2.3 Objectives
3. **Scope of operations**
 - 3.1 Description of infrastructure to be used and its suitability for the proposed programmes.
 - 3.2 Nature and level of research to be conducted.
 - 3.3 Areas in which expansion is contemplated within the first three years.

4. Planned structure of the organisation

By means of an organogram, the planned structure of the organisation must be indicated. The organogram must depict all the organisational divisions and their management. It must also show the number of academic and support staff in each academic division. (As an example, see the diagram below).



5. Market Research, Assessment and Feasibility

5.1 Description of the target market.

5.2 Current and long-term demand of the proposed programme offerings.

5.3 Degree of concentration of similar programme offerings by other public or private providers in the geographical area of the applicant's proposed location.

6. Risk Analysis and Management Strategies

6.1 External risks such as market risks and economic risks.

6.2 Internal risks such as:

- a) *Governance/Management/Systems inadequacies/Capacity failure*
- b) *Financial risk*
- c) *Marketing risk*
- d) *Implementation risk*

6.3 Risk management strategies:

- a) *Implementation and phasing*
- b) *Risk monitoring indicators*
- c) *Financial risk indicators*
- d) *Risk Management approach*

7. Organisational policies

7.1 Staffing policy

- a) Employment Equity policy as determined by the requirements of the *Employment Equity Act, 1998 (Act No. 55 of 1998)*.

7.2 Institutional policy dealing with:

- a) *Student admission policy*
- b) *Language policy*
- c) *Rules relating to assessment, academic credits, progression and qualification*
- d) *Fees and charges, including refund in case of cancellation and withdrawal*
- e) *Student financial aid*
- f) *Student support services*
- g) *Student rules and regulations/Code of conduct*
- h) *Staff and student grievance policies and procedures*

7.3 Occupational health and safety policy.

7.4 HIV/AIDS policy

8. Implementation framework

8.1 Implementation time frames

8.2 The rationale for these time frames

8.3 Critical success factors for this projects

ITEM 31

ANNEXURE A(3): Surety agreement

In terms of Regulation 13(2), an applicant is required to set up surety or guarantee to ensure that the applicant is able to meet its obligations to students for as long as it remains a registered private higher education institution. As documentary proof to this effect, a signed certified copy of the Agreement must be submitted to the Registrar. In this agreement there must be a clear indication of the following:

- a) *Parties entering into the agreement*
- b) *What is agreed upon*
- c) *Terms*
- d) *Conditions*
- e) *The amount of surety or guarantee*
- f) *How the amount was determined*
- g) *Any other consideration*

The surety agreement must be structured in such a way that it takes into account enrolment fluctuations.

ITEM 32

ANNEXURE B: Company registration documents

One of the eligibility criteria for registration as a private higher education institution is that the applicant should be a registered or recognized juristic person established in terms the Companies Act. As proof thereof, please submit signed certified copies of the *Certificate of Incorporation*, *Articles of Association* and a *Memorandum of Association*, or a *Certificate of Registration of Memorandum of External Company* as issued by CIPRO of the Department of Trade and Industry. To be regarded as valid, these documents should bear the official Seal and the signature of the Registrar of Companies.

ITEM 33

ANNEXURE C: Occupational health and safety audit report(s)

The occupational health and safety compliance audit reports for all sites of delivery must be submitted. The audit reports must be issued by a legally competent health and safety professional or organisation.

ITEM 34

ANNEXURE D: Business registration certificate

A certified copy of the business registration certificate issued by the Metropolitan Council or Local Authority in terms of the Regional Services Councils Act must be submitted.

G. QUALITY ASSURANCE AND MONITORING

The declarations contemplated under this section will bind the institution to the requirements of the Act in terms of subjecting itself to the quality assurance mechanisms as determined by the HEQC.

ITEM 35

ANNEXURE E: Declaration on application for accreditation

The following verbatim declaration must be submitted by the applicant on its official letterhead and must be dated and signed by the Chief Executive Officer of the applicant or an official of similar standing in the organisation:

I hereby declare that..... [legal name of the applicant as in 1 above] has applied to the Higher Education Quality Committee (HEQC) for accreditation of the following programmes:

- a) ..
- b) ..
- c) ..

I further declare that, if registered or provisionally registered, [legal name of the applicant] shall comply with the requirements of the HEQC as contemplated in section 53(1)(b)(ii) of the Higher Education Act, 1997 (Act No 101 of 1997).

The original of this declaration must be submitted.

ITEM 36

ANNEXURE F: Undertaking on institutional capacity

The following verbatim undertaking must be submitted by the applicant on its official letterhead and must be dated and signed by the Chief Executive Officer of the applicant or an official of similar standing in the organisation:

I hereby declare that, if registered or provisionally registered,.....[legal name of the applicant] will not exceed the enrolment that the facilities and equipment can reasonably accommodate.

I further declare that.....[legal name of the applicant] has sufficient space, equipment and instructional material to provide education and training of sufficient standard to achieve the objectives of each programme.

I also agree that, if registered or provisionally registered,.....[legal name of the applicant] will maintain full records of each student's admission, academic progress and assessment of learning in respect of each programme.

I declare that all the sites listed in this application are administered and controlled by.....[legal name of the applicant].

The original of this declaration must be submitted.

ITEM 37

ANNEXURE G: Declaration on monitoring and evaluation

The following verbatim undertaking must be submitted by the applicant on its official letterhead and must be dated and signed by the Chief Executive Officer of the applicant or an official of similar standing in the organisation:

I hereby declare that, if registered or provisionally registered,.....[legal name of the applicant] shall comply with an evaluation of the institution at intervals to be determined by the Registrar.

I further declare that, if registered or provisionally registered, [legal name of the applicant] shall comply with any other reasonable process arranged by the registrar after consultation with the institution for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration.

The original of this declaration must be submitted.

H. INTER- INSTITUTIONAL AGREEMENTS AND MARKETING INFORMATION

ITEM 38

ANNEXURE H: Inter-institutional agreements

If applicable, signed certified copies of agreements with other education institutions, whether South African or foreign, must be submitted. Each agreement must reflect the programmes involved. Copies of letters and membership certificates are not acceptable for this purpose.

ITEM 39

ANNEXURE I: Student prospectus, calendar or brochure

If available, a copy of your student prospectus, calendar or brochure must be submitted.

I. ADMISSION INFORMATION AND STUDENT RULES

ITEM 40

ANNEXURE J: Enrolment forms, student contracts, rules and regulations

Sample copies of your enrolment form, contract or written agreement with your students and, if applicable, student rules and regulations must be submitted. An indication of admission criteria and a proposed schedule of fees must be attached.

J. DECLARATION ON NON-DISCRIMINATION

ITEM 41

ANNEXURE K: Non-discrimination declaration

The following verbatim declaration must be submitted by the applicant on its official letterhead and must be dated and signed by the Chief Executive Officer of the applicant or an official of similar standing in the organisation:

I hereby declare that [legal name of the applicant] does not discriminate on the basis of race and that, if registered, [legal name of the applicant] will comply

with the provisions of section 9(4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

I accept that the Registrar of Private Higher Education Institutions may, in terms of section 29(3) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and section 62(1) of the Higher Education Act, 1997 (Act No. 101 of 1997), cancel this institution's registration or provisional registration should it be proven otherwise.

The original of this declaration must be submitted.

K. ADDITIONAL INFORMATION TO BE SUBMITTED BY FOREIGN APPLICANTS ONLY

ITEM 42

ANNEXURE L: Declaration on equality of qualifications

Proof that the home institution will accredit the applicable local qualifications is required. The following verbatim equality of qualifications statement, signed by the head of the foreign institution on the foreign institution's official letterhead, and addressed to the Registrar, is to be provided:

I hereby declare that [legal name of the applicant] will, subject only to the availability of places, allow successful students from its registered South African institution to enrol unconditionally, without any further course work, for further years of study in the same qualification at or any of its other sites.

ITEM 43

ANNEXURE M(1): Proof of recognition in the country of origin

A foreign applicant wishing to be registered must provide proof that in its country of origin it is recognised by official authorities as a higher education institution in terms of the statutes.

ITEM 44

ANNEXURE M(2): Proof of accreditation in the country of origin

A foreign applicant wishing to be registered must also provide proof that in its country of origin it is accredited as a higher education institution in terms of the statutes.

CHECKLIST

Please make sure that you have submitted *Form APX-01* and attached all documents listed below. Fill in this form and submit it with your application.

REQUIRED INFORMATION	SUBMITTED YES/NO	INSTITUTION'S COMMENTS	FOR OFFICE USE ONLY
<u><i>Form APX-01:</i></u> <i>Application Form</i>			
<u><i>Annexure A(1):</i></u> <i>Audited annual financial statements or Audited three-year financial forecast</i>			
<u><i>Annexure A(2):</i></u> <i>Business plan</i>			
ANNEXURE A(3): <i>Surety agreement</i>			
<u><i>Annexure B:</i></u> <i>Company registration documents</i>			
<u><i>Annexure C:</i></u> <i>Occupational health and safety audit report(s)</i>			
<u><i>Annexure D:</i></u> <i>Business registration certificate</i>			
<u><i>Annexure E:</i></u> <i>Declaration on application for accreditation</i>			
<u><i>Annexure F:</i></u> <i>Undertaking on institutional capacity</i>			
<u><i>Annexure G:</i></u> <i>Declaration on monitoring and evaluation</i>			
<u><i>Annexure H:</i></u> <i>Inter-institutional agreements</i>			
<u><i>Annexure I:</i></u> <i>Student prospectus, calendar or brochure</i>			
<u><i>Annexure J:</i></u> <i>Enrolment forms, student contracts, rules and regulations</i>			
<u><i>Annexure K:</i></u> <i>Non-discrimination declaration</i>			

<u><i>Annexure L:</i></u> <i>Equality of qualifications of foreign institutions</i>			
<u><i>Annexure M(1):</i></u> <i>Proof of recognition in the country of origin</i>			
<u><i>Annexure M(2):</i></u> <i>Proof of accreditation in the country of origin</i>			



DEPARTMENT OF EDUCATION

REGULATIONS FOR THE REGISTRATION OF
PRIVATE HIGHER EDUCATION INSTITUTIONS

APPLICATION FOR REGISTRATION AS A
PRIVATE HIGHER EDUCATION INSTITUTION

(Form APX-01)

Note: Applicants must consult the document: *A Guide for Completing the Application for Registration as a Private Higher Education Institution.*

A. ADMINISTRATIVE DATA

1. Legal name of the applicant

2. Particulars of authorised contact person

a) Name

b) Designation of contact person (e.g. MD, Principal, Head of Academic Affairs)

c) Telephone number

d) Fax number

e) E-mail address

3. Postal address of the applicant

Code	

4. Physical address and contact details of head office

Code	
Telephone	
Fax	
E-mail address	

5. Physical address and contact details of main campus

Code	
Telephone	
Fax	
E-mail address	

6. Website address

--

B. COMPANY REGISTRATION AND GOVERNANCE PARTICULARS

7. Legal name of the applicant (same as in Item 1)

--

8. Official trading name, abbreviation, acronym or translation (if applicable)

--

9. Type of juristic person

--

10. Company registration number

--

11. Indicate whether the applicant is a local or foreign juristic person

--

12. If foreign, indicate the country of origin

--

13. Details of the parent institution

a) Name of the parent institution

--

b) Name of the head of the parent institution

--

c) Postal address

Code	

d) Physical address

Code	

e) Telephone number

f) Fax number

g) E-mail address

h) Website address

14. Particulars of the Management

a) Chief Executive Officer or head of the institution

i) Name

ii) Title

iii) Identity number (passport number and citizenship if not South African)

iv) Telephone number(s) including cellular phone number, if available

v) Fax number

b) Names and identity numbers of the applicant's current directors

Surname & Initials	Title	Designation	Identity Number	Passport number

15. *Domicilium citandi et executandi* and contact details of the applicant

Code	
Telephone	
Fax	
E-mail address	

16. Holding company or any other organisation to which the applicant is subordinate

--

17. Relationship between the applicant and the holding company or other organisation

--

18. List of owners in accordance with the Articles of Association

Surname & Initials	Title	Identity Number

19. Details of the applicant's auditors

a) Name of the applicant's auditor

b) Registration number issued by the Public Accountants' & Auditors' Board

20. Tax and business registration details

a) VAT Registration Number

b) Income Tax Number

c) Business Registration Number

C. PARTICULARS OF LEARNING PROGRAMMES

21. Table 01: Programmes submitted to the HEQC for accreditation

Name of programme	Entrance requirements	Mode of delivery	Language of instruction	Minimum duration in months	Contact with students	
					Full-time	Part-time

22. Table 02: Proposed sites for programme delivery

Name	Physical address	Programmes to be delivered

D. STAFF AND STUDENT DATA

23. **Table 03:** Total staff expected to be employed and students to be registered for higher education programmes during the first three years of operation. The data should be expressed as headcount only.

		Year 1	Year 2	Year 3
Students				
Academic /Research staff				
	Full-time			
	Part-time			
Support staff				
	Full-time			
	Part-time			
Service staff				
	Full-time			
	Part-time			

24. **Table 04:** Data for each higher education programme.

NQF field	NQF level	Name of the programme	Student headcount enrolment		
			Year 1	Year 2	Year 3

25. **Table 05:** Higher education programmes for which the applicant provides or proposes to provide support on behalf of another institution.

NQF field	NQF level	Name of the programme	Certifying institution	Student headcount enrolment	Nature of support

E. DATA ON FET AND GET PROGRAMMES

26. (a) Do you offer any programmes in the GET band?
- (b) If yes, provide the provincial registration number as an independent school or ABET Centre
27. Do you offer any programmes in the FET band?
28. **Table: 06:** Total teaching staff employed and learners enrolled, expressed as headcount, for the GET and FET programmes.

	GET	FET
Teaching staff		
Headcount		
Students		
Headcount		

F. FINANCIAL VIABILITY REPORTS AND LEGAL DOCUMENTS

29. ANNEXURE A(1): Audited annual financial statements OR Audited financial forecasts.
 30. ANNEXURE A(2): Business Plan.
 31. ANNEXURE A(3): Surety agreement.
 32. ANNEXURE B: Company registration documents.
 33. ANNEXURE C: Occupational health and safety compliance audit report(s).
 34. ANNEXURE D: Business registration certificate.
-

G. QUALITY ASSURANCE AND MONITORING

35. ANNEXURE E: Declaration on application for accreditation.
 36. ANNEXURE F: Undertaking on institutional capacity.
 37. ANNEXURE G: Declaration on monitoring and evaluation.
-

H. INTER-INSTITUTIONAL AGREEMENTS AND MARKETING INFORMATION

38. ANNEXURE H: Inter-institutional agreements.
 39. ANNEXURE I: Student prospectus, calendar or brochure.
-

I. ADMISSION INFORMATION AND STUDENT RULES

40. ANNEXURE J: Enrolment forms, student contracts and rules and regulations.
-

J. DECLARATION ON NON-DISCRIMINATION

41. ANNEXURE K: Non-discrimination declaration.
-

K. ADDITIONAL INFORMATION TO BE SUBMITTED BY FOREIGN APPLICANTS ONLY

42. ANNEXURE L: Declaration on equality of qualifications.
43. ANNEXURE M(1): Proof of recognition in the country of origin.
44. ANNEXURE M(2): Proof of accreditation in the country of origin.



DEPARTMENT OF EDUCATION

REGULATIONS FOR THE REGISTRATION OF
PRIVATE HIGHER EDUCATION INSTITUTIONS

A GUIDE FOR COMPLETING THE APPLICATION
FOR AMENDMENT

(APX-02)

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VISION, MISSION AND MANDATE OF THE DEPARTMENT OF EDUCATION

VISION

Our vision is of a South Africa in which all our people have access to lifelong education and training opportunities, which will in turn contribute towards improving quality of life and building a peaceful, prosperous and democratic society.

MISSION

To provide leadership in the construction of a South African education and training system for the 21st century.

MANDATE

The vision for the transformation of the higher education system is articulated in *White Paper 3: A Programme for the Transformation of Higher Education (1997)*. Central to this vision is the building of a rational, seamless higher education system that grasps the intellectual and professional challenges facing South Africans in the 21st century, and meets the learning needs of individuals and the development needs of our society and economy.

The building of such a system necessitates, among other things, the promotion of quality teaching and research, not only in public universities and technikons, but also in privately established institutions of higher learning. It is primarily for this reason that the *Higher Education Act, 1997 (Act No. 101 of 1997)* (hereafter referred to as "the Act"), makes it a requirement for private institutions offering higher education to register with the Department of Education (DoE).

The registration of private higher education institutions, in accordance with the Act, applies only to institutions that offer learning programmes that result in the awarding of whole qualifications such as certificates, diplomas or degrees at levels 5 to 8 of the NQF. Registration, as required by the Act, means that an institution is granted the legal authority to offer accredited higher education programmes and qualifications. This requirement applies to all private institutions, be they local or foreign.

The aim of registering these institutions is to ensure that -

- a) all registered private higher education institutions offer an acceptable quality of education;
- b) current and prospective students receive higher education from institutions that have the resources, capacity and/or expertise to deliver quality programmes;
- c) the public obtains qualifications that are aligned with the NQF; and
- d) the education system continues on a path of transformation in accordance with government policy and regulation.

Registration can, therefore, be seen as a means of protecting the integrity of the higher education system and the interests of the public.

Chapter 7 of the Act deals specifically with private higher education institutions. The *Regulations for the Registration of Private Higher Education Institutions, 2002*, of which this guide and the application form are an appendix, provide the legal framework within which the registrar is required to regulate the registration of private higher education institutions in terms of the Act.

ACRONYMS USED IN THE GUIDE AND APPLICATION FORM

ABET	Adult Basic Education and Training
CHE	Council on Higher Education
CIPRO	Companies and Intellectual Property Registration Office
DoE	Department of Education
FET	Further Education and Training
GET	General Education and Training
HEQC	Higher Education Quality Committee
NQF	National Qualifications Framework
PAAB	Public Accountants' and Auditors' Board
SAQA	South African Qualifications Authority

APPLICATION TYPES

Regulations 3, 4 and 5 stipulate the following:

i) **Application for registration**

Any person intending to establish and maintain a private higher education institution must complete an Application for Registration as a Private Higher Education Institution (Form APX-01) and submit it to the registrar at least 18 (eighteen) months before the institution commences its operations.

ii) **Application for amendment**

An institution wishing to amend its registration or provisional registration in terms of section 58 of the Act must complete an Application for Amendment (Form APX-02) and submit it to the registrar at least 12 (twelve) months before the proposed amendment comes into effect.

iii) **Application for conversion**

An institution wishing to have its provisional registration converted to registration in terms of section 54(1)(c) of the Act must complete an Application for Conversion (Form APX-03) and submit it to the registrar by the date determined by the registrar.

IMPORTANT CONSIDERATIONS FOR COMPLETING THE APPLICATION FOR AMENDMENT

This guide and the accompanying application form must be used when an institution applies for an amendment of its registration or provisional registration. It is important to bear in mind that this document is only a guide and that additional information may be required to support the application.

This guide accompanies an application form (*Form APX-02*), which must be submitted when applying for an amendment. The guide is linked to the various sections of the application form. Institutions are, therefore, strongly urged to read through the guide carefully before commencing with the completion of the application form. Institutions are also strongly advised to read the guide in conjunction with the Act and the Regulations.

When completing the application form, the following must be borne in mind:

- a) An application for amendment must be lodged with the DoE at least 12 (twelve) months before the date on which the amendment is proposed to come into effect.
- b) The application form consists of the following sections:
 - Section A: Administrative data (Items 1 and 2).
 - Section B: Type(s) of amendment(s) (Item 3).
 - Section C: Amendment to the legal name (Items 4 and 5).
 - Section D: Amendment to the type or form of company (Item 6).
 - Section E: Amendment to registered programmes (Item 7-11).
 - Section F: Amendment to sites (Items 12-15).
 - Section G: Foreign institutions: Increase in student enrolment (Items 16-18).
 - Section H: Annexures.
- c) All relevant sections of the application form must be completed. In all instances sections A and B must be completed.
- d) In section B the type(s) of desired amendment(s) must be indicated. An institution can apply for any of the following five types of amendment(s), as reflected in the table below.

TYPES OF AMENDMENT	SUB-TYPES	ANNEXURES REQUIRED
1. Legal name of the institution		A only
2. Change of type of company		B only
3. Registered programmes	a) Addition of a programme	C and D only
	b) Discontinuation of a programme	E only
	c) Changes to the name of a programme	None
4. Sites of delivery	a) Addition of a site	F, G & H only
	b) Discontinuation of a site	I only
5. Foreign institutions: Increase in student headcount enrolment		J and K only

- e) An application for a particular type of amendment must be accompanied by the relevant annexure(s) as indicated in the table in (d) above. A brief description of each annexure is provided below:

Annexure A: Proof of change of legal name, as issued by SACRO.

Annexure B: Proof of change of type or form of the company, as issued by SACRO.

Annexure C: Programme feasibility report.

Annexure D: Declaration on application for accreditation.

Annexure E: Report on programme discontinuation.

Annexure F: Site and programme feasibility report.

Annexure G: Declaration on site control and administration.

Annexure H: Occupational health and safety compliance audit reports.

Annexure I: Report on site discontinuation.

Annexure J: Audited annual student headcount enrolment for the current academic year.

Annexure K: Report on increase in student headcount enrolment.

A detailed explanation of the content of each annexure is provided later in this guide.

- f) An institution wishing to apply for amendment of its registered programmes and/or sites of delivery must also apply to the HEQC for accreditation of the new programme and/or site. The HEQC will forward the accreditation report directly to the DoE.
- g) An institution that wishes to discontinue a programme or site must also inform the HEQC.
- h) The Registrar of Private Higher Education Institutions will not process an incomplete application or an application that does not address the items as required.
- i) All application documents must carry the date of submission to the DoE.

-
- j) The application documents can be accessed electronically in *Microsoft Word for Windows* on the DoE website at: http://education.gov.za/DoE_Sites/Higher_Education/Registrar/. However, all applications must be submitted as hard copies.
 - k) The application fee must be paid by means of a cheque made out to the DoE.
 - l) Important supporting documentation in the form of listed annexures must be provided as part of the application, as indicated in the table in (d) above.
 - m) An application checklist is provided at the end of this document to help institutions determine whether all the required information is included.

A. ADMINISTRATIVE DATA

In the spaces provided on *Form APX-02* the required information must be provided as explained per item below. Each explanation corresponds to the item on *Form APX-02*.

ITEM 1

Supply the legal name of the institution that is applying for amendment(s).

ITEM 2

Fill in the registration number that appears on your certificate of registration as a private higher education institution, as issued to your institution by the DoE.

B. TYPE(S) OF AMENDMENT(S)**ITEM 3**

By means of an (X), an institution contemplating the amendment of its registration or provisional registration must indicate which amendment(s) on the list below it wishes to effect:

1. Amendment to the legal name
 2. Amendment to the type of juristic person
 3. Amendment to registered programmes
 4. Amendment to sites of delivery
 5. Increase in student headcount enrolment (foreign institutions only)
-

C. AMENDMENT TO THE LEGAL NAME**ITEM 4**

If the institution is applying for an amendment to its legal name, the proposed new name must be supplied.

ITEM 5

If the institution's trading name, abbreviation or acronym or the translation of its name is to change, the new trading name, abbreviation, acronym or translation must be filled in.

D. AMENDMENT TO THE TYPE OR FORM OF COMPANY**ITEM 6**

The proposed new type of the company must be filled in. The conversion from one type of company to another must comply with the requirements and procedures stipulated in the *Companies Act, 1973 (Act No. 61 of 1973)*.

E. AMENDMENT TO REGISTERED PROGRAMMES**E1. Addition of a programme****ITEM 7**

In Table 01 the details of a programme which the institution proposes to add, and offer, as a higher education programme in accordance with the Act, must be supplied. The following explanation must be taken into account before responding to this item:

NQF fields

In terms of *Government Gazette No. 20234* of 25 June 1999, SAQA determined the following fields and sub-fields for purposes of registering qualifications with the NQF. "Qualifications" refers to degrees, diplomas and certificates that an institution proposes to award to students on successful completion of a programme of study. Before completing the form, it is important to check in which field your learning programme belongs.

01 Agriculture and Nature Conservation

Primary and secondary agriculture, nature conservation, forestry and wood technology, horticulture.

02 Culture and Arts

Design studies, visual and performing arts, cultural studies, music, sport, film, television and video.

03 Business, Commerce and Management Studies

Finance, economics and accounting, generic management, human resources, marketing, procurement, office and public administration, project management, public relations.

04 Communication Studies and Language

Communication and information studies, language, literature.

05 Education, Training and Development

Schooling, higher education and training, early childhood development, adult learning.

06 Manufacturing, Engineering and Technology

Engineering and related design, manufacturing and assembly, fabrication and extraction.

07 Human and Social Studies

Environmental relations, general social science, industrial and organisational governance and human resource development, people-/human-centred development, public policy, politics and democratic citizenship, religious and ethical foundations of society, rural and agrarian studies, traditions, history and legacies, urban and regional studies.

08 Law, Military Science and Security

Safety and justice in society, sovereignty of the state.

09 Health Sciences and Social Services

Preventive health, promotive health and development services, curative health, rehabilitative health/services.

10 Physical, Mathematical, Computer and Life Sciences

Mathematical, physical, life, information technology and computer, earth and space and environmental sciences.

11 Services

Hospitality, tourism, travel, gaming and leisure, transport, operations and logistics, personal care, wholesale and retail, consumer services.

12 Physical Planning and Construction

Physical planning, design and management, building construction, civil engineering construction, electrical infrastructure construction.

NQF levels

While the development of level descriptors is still being finalised by SAQA, the following is a guide for purposes of completing *Form APX-02*.

NQF level 5 broadly refers to certificates and diplomas.

NQF level 6 generally includes all first-degree qualifications.

NQF level 7 refers to postgraduate qualifications at honours and master's degree levels.

NQF level 8 refers to doctoral degrees.

Mode of delivery**a) Contact education**

This involves personal interaction with teachers or supervisors through lectures, tutorials, seminars, practicals, supervision, or other forms of required work, and occurs at the institution's premises or site(s).

b) Distance education

The interaction between students and teachers or supervisors is undertaken through distance education techniques, such as correspondence or telematic education. There are a number of different forms of distance education, including: