



National Commission for Further and Higher Education Malta

SL327.433 Regulation 47 Interpretation Note

Date: 20th October 2015

Comm. No: 07/2015

The following guidelines refer to the correct interpretation of Regulation 47 of Subsidiary Legislation (SL) 327.433 'Further and Higher Education (Licensing, Accreditation and Quality Assurance) Regulations'. They are intended to ensure that the said Regulation is understood in the spirit of the SL in its totality. The SL mandates appropriate due diligence and compliance review procedures to ensure that the quality assurance of further and higher education in Malta is compatible with the high standards required by the Copenhagen and Bologna processes for further and higher education provision respectively. These include regular external quality audits at both institutional and programme levels and as mandated by the specific conditions of individual licences, as well as on-site inspections where necessary.

The table below gives the reference and text from Regulation 47, and the correct interpretation of that text to which the NCFHE will be adhering.

<i>SL ref.</i>	<i>Text from Regulation 47</i>	<i>Correct interpretation</i>
47 (1)(a)	"higher education, teaching, research ¹ and dissemination of knowledge are the primary activities of the higher education institution"	<ul style="list-style-type: none"> • "The primary activities" of an application are defined by its strategic academic plan and related budget for a set number of years that cover at least the first cycle of its longest courses to be provided in Malta. • "The primary activities" of the institution relate to the activities of the applicant <i>per se</i>, not simply the activities of its individual staff. The whole is greater than the sum of the parts. • "The primary activities" requirements,

¹ By way of definition, the NCFHE aligns itself to the Frascati definition of research whereby research and experimental development (R&D) are deemed to comprise creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications.

The term R&D covers three activities undertaken either by academics or students following higher education: basic research, applied research and experimental development. Basic research is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundation of phenomena and observable facts, without any particular application or use in view. Applied research is also original investigation undertaken in order to acquire new knowledge. It is, however, directed primarily towards a specific practical aim or objective. Experimental development is systematic work, drawing on existing knowledge gained from research and/or practical experience, which is directed to producing new materials, products or devices, to installing new processes, systems and services, or to improving substantially those already produced or installed. R&D covers both formal R&D in R&D units and informal or occasional R&D in other units.

		<p>as well as all other references in Regulation 47 to academic and administrative experience, may be fulfilled if the applicant can demonstrate that it has a strategic contractual and institutional² relationship with an accredited³ and established HEI with the aim of implementing the strategic academic plan of the applicant as approved by the NCFHE. Such a plan would need to be of at least 5 years' duration, and be in operation so as to ensure that services and provision are fit for purpose in time for the admission of first cohort of students. This strategic relationship shall ensure due process for all the quality assurance procedures and integrity of outcomes in all core administrative and academic operations of the applicant. After the termination of this contractual relationship, the applicant shall undergo a review by the NCFHE to determine whether the applicants can sustain the continued quality of service. "Dissemination" will also mean knowledge transfer as well as the exploitation and application of knowledge.</p>
<p>47 (1)(b)</p>	<p>"the higher education institution has – (i) academic staff, and (ii) an academic library; and (iii) stable research training or stable research and development activities of a high standard"</p>	<ul style="list-style-type: none"> • "Of a high standard" refers to academic staff, the academic library and the research component. • "Has academic staff" means that the applicant has engaged or has concrete commitments to engage its core academic staff, or has confirmed access (through the strategic partnership mentioned before) of such staff, who have an established and active academic reputation. Such staff shall be ready to give effective service in time for first cohort of students. • "Has an academic library" means that the applicant has, or has concrete and sustainable plans for, a core physical library on site in Malta as well as access to appropriate e-resources, which shall be in place in time for the first cohort of students . • "Stable research training" means research training for students engaged

² The relationship is with a body corporate or equivalent, not with individuals within an institution.

³ As defined in SL 327.433

		in ongoing research. “Stable research and development activities” requires that entities provide proof that peer reviewed and published research and development activities are stable, ongoing and in place at time of application.
47 (1)(c)	“the higher education institution has representative bodies of staff and students”	<ul style="list-style-type: none"> • Both staff and students need to be represented in the structures of the entity through democratic processes. This needs to be clearly explained in the documentation presented with the application.
47 (1)(d)	“the higher education institution has an organisation and infrastructure for providing higher education and undertaking research”	<ul style="list-style-type: none"> • Applicants will need to demonstrate that the human resource, the physical resource and the organisational resource are fit-for-purpose for the provision proposed by the time that the first cohort is admitted. In the case of entities with less than three years experience, the strategic contractual relationship referred to in the comment for (1) (a) previously would address this requirement.
47 (1)(e)	“the higher education institution provides programmes which lead to national qualifications classified at a combination of either Malta Qualifications Framework levels 5, 6, or 7, or foreign qualifications at a comparable level, in at least four fields, and also has independent competence in setting up the components of such programmes and an independent right to award degrees with respect to such programmes”	<ul style="list-style-type: none"> • Fulfilling the requirement of “independent competence in setting up the components of such programmes” refers to applicants evidencing that they have the internal capacity to draft and develop study programmes at the indicated MQF levels and to deliver such programmes. • “Independent right to award degrees” refers to applicants having the internal capacity to set up internal quality assurance systems which satisfy the requirements of the National QA framework.
47 (1)(f)	“the higher education institution provides programmes which lead to national qualifications classified at Malta Qualifications Framework level 8, or a foreign qualification at a comparable level, and also has independent competence in setting up the components of such programmes and an independent right to award degrees with respect to such programmes”	<ul style="list-style-type: none"> • Fulfilling the requirement of “independent competence in setting up the components of such programmes” refers to applicants evidencing that they have the internal capacity to draft and develop study programmes at the indicated MQF levels and to deliver such programmes. • “Independent right to award degrees” refers to applicants having the internal capacity to set up internal quality assurance systems which satisfy the requirements of the National QA framework.

47 (1)(g)	“the higher education institution is affiliated with international networks in connection with higher education and, or research and participates in national and international cooperation in teaching and, or research”	<ul style="list-style-type: none"> • Applicants are expected to provide evidence of affiliations with active participation in reputable international networks of higher education/research. Entities with limited experience should affiliate themselves through accredited higher education institutions by the date of the application.
Proviso	“Provided that an accredited HEI shall be eligible to apply for University status if the Commission considers that such application is in the national interest and in fulfilment of national policies, on the basis of a different combination of higher education qualifications other than those indicated in subregulations (e) and (f) above”	<ul style="list-style-type: none"> • For the purposes of eligibility, the applicant needs to provide five (5) accredited programmes with at least one (1) programme at each of the MQF levels 5, 6 and 7. • “In the national interest and in fulfilment of national policies” refers exclusively to the implementation of prevailing internationalisation and pluralism policies with regard to further and higher education. • The Commission will activate this proviso only if the Board of NCFHE specifically agrees that, notwithstanding its non-conformity with sub-regulations (e) and (f) above, the application in question: <ul style="list-style-type: none"> (i) Adheres to sub-regulations (a), (b), (c), (d) and (g), as further explained in these guidelines; and (ii) Offers a range of five higher education courses in five different fields; and, moreover (iii) Is expected to make an exceptional contribution to higher education in Malta that will benefit the greater internationalisation and pluralism of higher education through the attraction of universities of a high standard to Malta; and <p>To attract international fee-paying students attending a range of educational programmes and institutions in Malta from both EU and non-EU countries; thus</p> <p>Facilitating greater pluralism of choice and competition in Malta through a network of higher education providers involving private local and foreign institutions</p>

		independent of the State.
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