

**ACT ON QUALITY
ASSURANCE IN HIGHER
EDUCATION**

(HS-QSG)

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QUOTATION

Federal Act on the External Quality Assurance in Higher Education and the Agency for Quality Assurance and Accreditation Austria (Act on Quality Assurance in Higher Education – HS-QSG)

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¹ Bundesgesetzblatt für die Republik Österreich (BGBl.).

ACT ON QUALITY ASSURANCE IN HIGHER EDUCATION – HS-QSG²

Section 1 General Provisions

Scope of Regulation

§ 1. (1) This Act shall regulate external quality assurance at the following postsecondary higher education institutions:

1. Universities according to the Universities Act 2002 (UG), Federal Law Gazette I No. 120/2002,
2. the University for Continuing Education Krems according to the Act on the Danube University Krems 2004, Federal Law Gazette I No. 22/2004,
3. providers of University of Applied Sciences degree programmes according to the University of Applied Sciences Studies Act (FHStG), Federal Law Gazette No. 340/1993,
4. private universities according to the University Accreditation Act (UniAkkG), Federal Law Gazette I No. 168/1999, and according to the Act on Private Universities (PUG), Federal Law Gazette I No. 74/2011.

(2) The external quality assurance of the educational institutions named in para. 1 shall be ensured by way of:

1. Certification of quality management systems of educational institutions;
2. accreditation of degree programmes;
3. accreditation of educational institutions;
4. supervision of the accredited educational institutions under this Act and the degree programmes accredited under this Act.

(3) The external quality assurance, together with the internal quality management system of the educational institutions named in para. 1, is intended to ensure that they meet high standards and continuously enhance their quality.

Definition of Terms

§ 2. Within the scope of application of this Act, the following definitions shall apply:

1. External quality assurance encompasses various measures to be taken periodically for the evaluation of the quality improvements in the performance of higher education institutions in teaching, research and administration.
2. Quality assurance procedures are formal processes, carried out by independent and external assessors, that establish the conformity of educational institutions and degree programmes or the educational institution's quality management system with pre-defined criteria and standards.
3. Accreditation is the formal federal recognition of an educational institution (institutional accreditation) or of degree programmes (programme accreditation) based on pre-defined criteria and standards.

² Hochschul-Qualitätssicherungsgesetz – HS-QSG.

4. Certification is the formal certificate documenting the conformity of an educational institution's quality management system with pre-defined criteria and standards.

Section 2

Establishment of the Agency and Its Bodies

Agency for Quality Assurance and Accreditation Austria

§ 3. (1) The Agency for Quality Assurance and Accreditation Austria shall be established for the external quality assurance of the educational institutions named under § 1 para. 1.

(2) The Agency for Quality Assurance and Accreditation Austria shall be a legal entity governed by public law.

(3) The Agency for Quality Assurance and Accreditation Austria shall fulfil, in particular, the following tasks in the area of external quality assurance:

1. Developing and carrying out external quality assurance procedures, as a minimum, audit and accreditation procedures, according to national and international standards;
2. accrediting higher education institutions and degree programmes;
3. reporting to the National Council by way of the competent Federal Minister;
4. publishing reports on the outcome of the quality assurance procedures;
5. continuously supervising accredited higher education institutions and degree programmes regarding accreditation requirements;
6. fulfilling the tasks according to the provisions of the University of Applied Sciences Studies Act and the Act on Private Universities;
7. issuing certificates for educational institutions upon an audit;
8. conducting studies and system analyses, performing evaluations, and carrying out projects;
9. providing information and advice in matters related to quality assurance and quality enhancement;
10. international cooperation in the area of quality assurance.

(4) The Agency for Quality Assurance and Accreditation Austria shall undergo an external evaluation according to international standards on a regular basis.

Bodies of the Agency for Quality Assurance and Accreditation Austria

§ 4. (1) The bodies of the Agency for Quality Assurance and Accreditation Austria include the Governing Committee, the Board, the Appeals Committee, and the General Meeting.

(2) At least 45% of the members of all bodies shall be women. This regulation shall be taken into account when nominating candidates for the different bodies.

(3) If the required women's quota of at least 45% among the members of the General Meeting and the Board is not met, the competent Federal Minister shall reject the nomination, unless sufficient reasons for the non-compliance with this regulation exist. In this case, a new candidate or new candidates shall be nominated.

Governing Committee

§ 5. (1) The Governing Committee shall consist of five members, who, according to § 12, shall be elected from the members of the General Meeting. The term of office of the members shall be five years; reappointments are permissible.

(2) The Governing Committee shall:

1. Submit an opinion:
 - a) on the regulations, standards and processes of the quality assurance procedure;
 - b) on the financial plan and the financial statements;
 - c) on the activity report;
 - d) on the rules of procedure of the General Meeting;
 - e) on the advertisements for the positions of and the employment of employees and of the General Manager and the Deputy General Manager;
2. suggest an auditor according to § 16 to the competent Federal Minister;
3. prepare and call the meetings of the General Meeting and report to the General Meeting.

(3) The Governing Committee shall elect a chairperson and deputy chairperson among its members.

(4) The Governing Committee shall resolve by a simple majority.

Board

§ 6. (1) The Board shall consist of fourteen members, for whom the following shall apply:

1. Eight members shall be experts in the area of higher education and shall have academic qualifications and experience in quality assurance and shall represent different sectors of higher education.
2. Two members shall be appointed who are student representatives.
3. Four members shall be appointed who are practitioners. They shall be familiar with the national or international higher education sector, have experience in professional fields relevant for higher education institutions, shall possess sound judgment in matters related to quality assurance, and shall be able to contribute to the fulfilment of the tasks of the Agency for Quality Assurance and Accreditation Austria because of their profound knowledge and experience.
4. At least half of the members according to subparas. 1 and 2 shall be from abroad.

(2) Members of the Board shall not be members of the Federal Government or a provincial government, members of the National Council, or the Federal Council or any other general representative body, or officials of a political party or of an institution represented in the General Meeting, and shall not have been in such a position in the past four years. Employees working for Federal Ministries competent for higher education institutions shall also be excluded from board membership.

Appointment of the Board

§ 7. (1) The members of the Board shall be appointed by the competent Federal Minister.

(2) Two foreign members and two Austrian members among the members according to § 6 para. 1 subpara. 1 shall be nominated by the competent Federal Minister, all other members by the General Meeting. The members according to § 6 para. 1 subparas. 2 and 3 shall be nominated by the General Meeting with a two-third majority.

(3) The term of office of the members of the Board shall be five years; one reappointment is permissible. As an exception to this rule, the initial term of office after the entry into force of this Act shall be three years for half of the members according to § 6 para. 1 subparas. 1 to 3.

(4) The members of the Board shall elect a President and a Vice-President among themselves.

(5) The term of office of the President and the Vice-President shall be five years with the possibility of a reappointment for one subsequent term of office.

(6) The members of the Board shall fulfil their tasks on a part-time basis. The members of the Board shall be entitled to receive compensation for their service, the amount of which the competent Federal Minister shall decide on, and to be reimbursed for their travel expenses.

(7) The competent Federal Minister shall recall a member of the Board prior to the expiry of the term of office upon application or after hearing the opinion of the Board, if the member has grossly violated or neglected his/her duties or if the member is no longer able to fulfil his/her duties.

Meetings of the Board

§ 8. (1) The Board shall fulfil its tasks in plenary meetings. The meetings shall be called by the President in writing and shall be held at least twice a year. The meetings shall not be public and all matters discussed shall be treated confidentially.

(2) The Board shall have a quorum, when at least ten members are present in person. Decisions can be taken only if at least eight members have voted in favour of a motion.

Tasks of the Board and Rules of Procedure

§ 9. (1) The Board shall have, in particular, the following tasks:

1. Deciding on the accreditation of educational institutions and degree programmes or on the certification of the quality management system;
2. deciding on regulations, standards and processes of the quality assurance procedure;
3. resolutions on reports;
4. forwarding decisions concerning the accreditation procedure to the competent Federal Minister;
5. publishing the results of the quality assurance procedures;
6. providing information to the Appeals Committee, the Governing Committee and the General Meeting;

7. adopting rules of procedure that guarantee the fulfilment of the tasks assigned to it;
8. resolutions on the annual financial plan and financial statements;
9. supervision of the Management Office;
10. advertising positions and employing employees of the Management Office;
11. advertising the position of and employing the General Manager and the deputy General Manager, both of whom the Board shall decide on unanimously. § 14 paras. 1 and 3 shall not apply in this case;
12. supervision of the accredited educational institutions and degree programmes regarding the accreditation requirements;
13. fulfilling the tasks according to the University of Applied Sciences Studies Act and the Act on Private Universities;
14. International cooperation in the area of quality assurance.

(2) The Board shall in the exercise of its office not be bound by any instructions.

(3) The Board shall adopt rules of procedure that guarantee the fulfilment of the tasks assigned to it, the tasks of the Appeals Committee and the tasks of the Management Office as well as the fulfilment of the other tasks of the Agency for Quality Assurance and Accreditation Austria. The rules of procedure shall also regulate the organisation of the Management Office.

Head of the Agency and the Management Office

§ 10. (1) The President of the Board is in charge of the Board and the Management Office and represents the Agency externally. His/her tasks shall include, in particular, the conclusion of contracts.

(2) The rules of procedure may grant the General Manager or the Deputy Manager representational powers for specific matters.

(3) To support the Agency for Quality Assurance and Accreditation Austria in the fulfilment of its tasks, a Management Office shall be established.

(4) The Management Office shall be headed by the General Manager and the Deputy Manager. The advertisement for the positions of and the employment of the General Manager and the Deputy Manager shall observe the Staffing Act, Federal Law Gazette I No. 26/1998. The employees of the Management Office shall not be members of any body of the Agency for Quality Assurance and Accreditation Austria.

(5) The organisation and the tasks of the Management Office as well as the tasks of the General Manager and the Deputy Manager shall be laid down in the rules of procedure of the Board, with the Deputy Manager receiving his/her own area of responsibility. The tasks shall include, as a minimum, the preparation of reports and the financial plan.

General Meeting

§ 11. (1) The General Meeting shall consist of 23 members, including:

1. six representatives, nominated by the Advisory Council for Economic and Social Affairs;
2. two representatives of the Austrian National Union of Students;
3. one representative of the Association for the Establishment and Promotion of a National Students' Representation at Private Universities;

4. six representatives of *Universities Austria*;
5. four representatives of the Association of Universities of Applied Sciences;
6. two representatives of the Austrian Private Universities' Conference;
7. two representatives of the Federal Ministry of Science and Research.

(2) The members of the General Meeting shall be familiar with the higher education system and with matters regarding quality assurance in higher education.

(3) The nomination of the members according to para. 1 subparas. 2 to 7 shall be made by the respective bodies. The member shall be nominated at the latest one month prior to the expiry of the member's term of office and, if a member is recalled prematurely, at the latest one month after announcing the recall. The members shall be appointed by the competent Federal Minister.

(4) The term of office of the members of the General Meeting shall be five years; reappointments shall be permissible.

(5) The competent Federal Minister shall recall a member of the General Meeting prior to the expiry of the term of office upon application or after hearing the opinion of the General Meeting, if the member has grossly violated or neglected his/her duties or if the member is no longer able to fulfil his/her duties.

Tasks of the General Meeting

§ 12. (1) The tasks of the General Meeting shall include:

1. Elections according to § 5 para. 1;
2. Nominations according to § 7 para. 2 and § 13 para. 3;
3. Acknowledgement of the financial plan, the financial statements and the activity report as well as opinions on the rules of procedure of the Board.

(2) Nominations shall include, according to § 5 para. 1, one member from the representatives of *Universities Austria*, one member from the Association of Universities of Applied Sciences and one member from the Austrian Private Universities' Conference.

(3) The General Meeting shall elect a chairperson among its members.

(4) The General Meeting shall fulfil its tasks in plenary meetings.

(5) The General Meeting shall have a quorum, when at least fifteen members are present in person. It shall resolve by a simple majority. In case of a tie, the chairperson shall have the casting vote.

(6) The General Meeting shall adopt rules of procedure that guarantee the fulfilment of the tasks assigned to it and the tasks assigned to the Governing Committee according to § 5.

(7) The members shall not receive a compensation for their service.

Appeals Committee

§ 13. (1) The Appeals Committee shall deal with and decide on appeals lodged by educational institutions against the procedure as such and against certification decisions.

(2) The Appeals Committee shall consist of two Austrian members and one foreign member who shall be experts in the field of quality assurance in higher education and

possess legal qualifications, as well as two substitute members. Austrian and foreign representatives shall be appointed as substitute members in equal numbers.

(3) The members of the Appeals Committee shall be nominated and appointed by the General Meeting.

(4) Members of the Appeals Committee shall not be members of any other body of the Agency for Quality Assurance and Accreditation Austria. They shall not be bound by any instructions in the exercise of their office.

(5) The term of office of the members of the Appeals Committee shall be three years. Reappointments are permissible. As an exception to this rule, the initial term of office after the entry into force of this Act shall be two years for one Austria member.

(6) The Appeals Committee shall elect a chairperson among its members.

(7) The Appeals Committee shall resolve by a simple majority.

(8) The General Meeting shall recall a member of the Appeals Committee prior to the expiry of the term of office upon application by the Appeals Committee or after hearing its opinion, if the member has grossly violated or neglected his/her duties of if the member is no longer able to fulfil his/her duties.

(9) The members of the Appeals Committee shall be entitled to receive compensation for their service, the amount of which the Board shall decide on, and to be reimbursed for their travel expenses.

(10) Appeals shall be lodged with the Management Office in writing by the body authorised to represent the educational institution lodging the appeal externally. The Management Office shall forward the appeal without delay to the Appeals Committee for inspection and shall inform the Board about this. The Appeals Committee has the right to deal with the appeal in writing or to invite the educational institution lodging the appeal to a meeting. The Committee may also, upon consultation with the educational institution lodging the appeal, hold a hearing with third parties. The Appeals Committee shall report the results of its investigations to the Board and to the educational institution lodging the appeal and shall, if necessary, suggest appropriate measures to solve the problems.

(11) The exact process of the procedure shall be laid down in the rules of procedure according to § 9 para. 1 subpara. 7.

Dilatoriness of Bodies

§ 14. (1) If a body of the Agency for Quality Assurance and Accreditation Austria according to §§ 5, 11 and 13 fails to fulfil a task incumbent upon it by virtue of this Act within a reasonable period, the Board may, acting ex proprio motu, grant an extension of four weeks, within which the body which is in delay shall complete such task. If this period expires without the task being completed, the task in question shall be completed

1. by the General Meeting in matters according to § 5 para. 2,
2. by the competent Federal Minister in matters according to § 7 para. 2 last sentence, § 11 para. 1 subparas. 1 and 11 and para. 3 and § 12 para. 1 subparas. 1 and 2,
3. and by the Governing Committee in matters according to § 9 para. 1, § 12 para. 1 subpara. 3 and § 13 para. 3 (substitute performance).

(2) Para. 1 shall not apply to the area of application of the General Administrative Procedure Act 1991 (AVG), Federal Law Gazette No. 51/1991.

(3) If the Board is in delay in the meaning of para. 1, the Governing Committee shall upon application by the concerned body of the Agency or by the applying educational institution or acting ex proprio motu take the measures according to para. 1.

(4) If the Governing Committee is in delay in the meaning of para. 2, the General Meeting shall effect the substitute performance.

Section 3

Financial Management and Accounting

Funding and Financial Management

§ 15. (1) The funding of the Agency for Quality Assurance and Accreditation Austria shall come from federal funds as well as from its own income generated in the fulfilment of the tasks of the Agency for Quality Assurance and Accreditation Austria under this Act. The federal funds are provided annually by the Federal Ministry of Science and Research upon submission of a financial plan. The amount of the federal funds shall be determined in accordance with the principles of the Federal Budget Act, Federal Law Gazette No. 213/1986, and, having regard to the financial resources of the Federal Government and the income generated by the Agency for Quality Assurance and Accreditation Austria, in such a manner that the bodies of the Agency are able to fulfil the tasks laid down in this Act.

(2) The President of the Board shall submit to the competent Federal Minister by 30 June of each year a financial plan for the coming year and a preview of the two following years for approval. For the first accounting year, the Federal Ministry of Science and Research shall draw up a preliminary financial plan that shall apply until the Board approves the financial plan.

(3) Resources shall be allocated monthly on a pro rata basis.

(4) The Agency for Quality Assurance and Accreditation Austria shall be free to use its income without restrictions, unless the law provides otherwise. Potentially tied funds shall be taken into consideration.

(5) In its financial management, the Agency for Quality Assurance and Accreditation Austria shall act on its own behalf and for its own account.

(6) The Federal Government shall not be liable for accounts payable of the Agency for Quality Assurance and Accreditation Austria.

(7) The financial management of the Agency for Quality Assurance and Accreditation Austria shall be subject to audits by the Court of Audit.

Accounting

§ 16. (1) The Agency for Quality Assurance and Accreditation Austria shall, applying the Corporate Code, Law Gazette of the German Reich p. 219/1897, by analogy, install an accounting system, including income and expenditure accounting, which shall fall under the responsibility of the President of the Board and which

1. is appropriate for the tasks of the Agency,
2. guarantees the fulfilment of the reporting obligations according to the regulations issued by the Federal Minister of Finance for the establishment of a uniform federal planning, information, and reporting system for a share and finance controlling, Federal Law Gazette II No. 319/2002, and

3. makes a division into accounting groups, with at least a division between the tasks according to § 3 para. 3 subparas. 1 to 6 and subparas. 7 to 10.

(2) The competent Federal Minister may, by decree, determine that the Agency for Quality Assurance and Accreditation Austria shall grant him/her continuous and automated access in a technically appropriate format to the standardised data needed for planning, controlling and statistics.

(3) The financial year of the Agency for Quality Assurance and Accreditation Austria shall correspond to the calendar year.

(4) The President shall submit annual financial statements together with the auditor's report to the competent Federal Minister by 30 June of each year. The financial statements shall consist of a balance sheet and a profit and loss account as well as notes on the financial statements. The auditor shall be a registered auditor and chartered accountant or an auditing and accounting firm independent of the Agency for Quality Assurance and Accreditation Austria. The provisions of the Commercial Code shall apply by analogy to the selection of the auditor and the auditor's liability as well as to the performance of the audit.

(5) The auditor shall be appointed by the competent Federal Minister as proposed by the Governing Committee prior to the end of financial year.

Exemptions from Taxes and Duties

§ 17. (1) In the fulfilment of its tasks, the Agency for Quality Assurance and Accreditation Austria shall not be subject to the provisions of the Trade Code 1994, Federal Law Gazette No. 194/1994.

(2) In the performance of its statutory tasks, the Agency for Quality Assurance and Accreditation Austria shall be eligible for all exemptions from taxes and duties accorded to the Federal Government under federal legislation.

(3) All transactions associated with the establishment of the Agency for Quality Assurance and Accreditation Austria and the transfer of assets according to § 36 paras. 4 and 5 and the transfer of rights, accounts receivable, and accounts payable from the Federal Government to the Agency shall be exempt from all taxes provided for under Federal Law.

Section 4

Principles and Procedures of Quality Assurance

Quality Assurance Procedure

§ 18. (1) The quality management system of universities under the Universities Act and of the University for Continuing Education Krems according to the Act on the Danube University Krems 2004, of providers of University of Applied Sciences degree programmes that are accredited and undergo an institutional assessment according to the University of Applied Sciences Studies Act on or before 29 February 2012 shall be subject to periodic audits.

(2) Educational institutions are publicly recognised as providers of University of Applied Sciences degree programmes or as private universities through accreditation of the educational institution (institutional accreditation) and accreditation of the degree programmes (programme accreditation).

(3) University of Applied Sciences degree programmes to be newly established and degree programmes at private universities to be newly established that award an academic degree upon completion shall be accredited.

Implementation of the Quality Assurance Procedure

§ 19. (1) Audits according to the assessment areas named in § 22 may be performed by the Agency for Quality Assurance and Accreditation Austria, by a quality assurance agency registered with the European Quality Assurance Register for Higher Education (EQAR) or by another internationally recognised and independent quality assurance agency. In these cases, the result shall have the same effects as an audit performed by the Agency for Quality Assurance and Accreditation Austria. Educational institutions that have designed their internal quality management system with the help of the Agency for Quality Assurance and Accreditation Austria shall not select the Agency for Quality Assurance and Accreditation Austria for their next quality assurance procedure.

(2) The competent Federal Minister shall announce the agencies for quality assurance according to para. 1 by decree.

(3) Accreditation procedures shall be carried out by the Agency for Quality Assurance and Accreditation Austria.

Procedural Costs

§ 20. (1) The Agency for Quality Assurance and Accreditation Austria shall be entitled to charge an individually set fee for the quality assurance procedures it carries out. The fee shall include the actual costs of the assessment as well as a flat administrative fee for the Agency for Quality Assurance and Accreditation Austria.

(2) The Agency for Quality Assurance and Accreditation Austria shall set the amount of the flat administrative fee for quality assurance procedures at educational institutions according to § 1 para. 1 and shall publish it. The amount is subject to approval by the competent Federal Minister.

Publication of the Results of the Procedure

§ 21. The results of the audit and the accreditation procedure shall be published by both the Agency and the applying educational institution. This shall include the report on the results of the quality assurance procedure and the decision made by the agency for quality assurance together with the reasons for the decision. Personal data and those parts of the report that disclose funding sources as well as business and operational secrets shall not be made public.

Audit and Certification

§ 22. (1) The certification of the quality management system of an educational institution shall be based on an audit of the assessment areas mentioned in para. 2.

(2) To universities under the Universities Act and the Act on the Danube University Krems 2004 as well as to providers of University of Applied Sciences degree programmes according to the University of Applied Sciences Studies Act, the following assessment areas shall, as a minimum, apply:

1. Quality strategy and its integration into the management tools of the higher education institution;

2. quality-assurance structures and procedures in the areas of degree programmes and teaching, research or advancement and appreciation of the arts or applied research and development, organisation and administration and staff;
3. integration of internationalisation and societal objectives into the quality management system;
4. information systems and involvement of stakeholder groups;
5. quality-assurance structures and procedures for certificate programmes for further education offered by providers of University of Applied Sciences degree programmes according to § 9 University of Applied Sciences Studies Act as well as certificate programmes for further education that are run jointly in the meaning of § 3 para. 2 subpara. 11 of the University of Applied Sciences Studies Act.

(3) The assessment areas for procedures of the Agency for Quality Assurance and Accreditation Austria shall be specified by the Board in the form of regulations.

(4) The certification shall be limited to seven years. The certification shall be extended until the completion of an on-going auditing procedure.

(5) The certification can be made conditional, if it is discovered in the course of the audit that there are shortcomings in the quality management and if the assessment is made that these can be rectified within a reasonable period of time. If the certification is made conditional, the Agency for Quality Assurance and Accreditation Austria or the respective agency shall check whether these shortcomings have been rectified in the course of a follow-up procedure at the latest two years after the certification.

(6) If the quality management system of the educational institution is not awarded a certification, a mandatory re-audit shall be performed exclusively by the Agency for Quality Assurance and Accreditation Austria after two years.

(7) If no certification is awarded or a conditional certification is awarded or an incorrect report on the results has been, in the opinion of the educational institution, submitted, the report on the results or the certification can be submitted to the Appeals Committee for inspection.

Accreditation of Universities of Applied Sciences and University of Applied Sciences Degree Programmes

§ 23. (1) The accreditation of a University of Applied Sciences or of University of Applied Sciences degree programmes shall be governed by the accreditation requirements under the University of Applied Sciences Studies Act and the assessment areas named in paras. 3 or 4.

(2) Those providers that submit their initial application for the accreditation as a University of Applied Sciences, shall undergo an institutional accreditation and a programme accreditation.

(3) The assessment areas of the institutional accreditation shall, as a minimum, include:

1. Objectives and profile;
2. development planning;
3. degree programmes and teaching;
4. applied research and development;

5. organisation of the higher education institution and its activities;
6. funding and resources;
7. national and international cooperation;
8. quality management system.

(4) The assessment areas of the programme accreditation for the University of Applied Sciences degree programme applied for shall, as a minimum, include:

1. Degree programme and degree programme management;
2. staff;
3. quality assurance;
4. funding and infrastructure;
5. applied research and development;
6. national and international cooperation.

(5) The Board shall issue a decree upon completion of a public assessment procedure in which the assessment areas and the methodological principles of the institutional accreditation and the programme accreditation shall be laid down.

(6) If the applying institution meets all requirements, an accreditation limited to six years according to para. 1 and para. 3 or an accreditation for an unlimited period according to para. 1 and para. 4 shall be awarded. The official accreditation notification shall, as a minimum, include the following information:

1. Accreditation period;
2. name of the legal entity of the educational institution;
3. title, type, workload of the degree programmes, duration of the degree programmes, and number of study places;
4. denomination of the academic degrees to be awarded;
5. any other conditions to be met.

(7) A one-time prolongation of the institutional accreditation for six years shall be permissible upon application, if the requirements according to paras. 1 and 3 are still met. The prolongation of the accreditation shall also include the degree programmes already accredited at this point. Applications for the prolongation shall be made nine months before the end of the accreditation period at the latest. If the institutional accreditation is not renewed, all programme accreditations awarded to the educational institution shall be revoked.

(8) The initial accreditation of an educational institution or of degree programmes shall not be made conditional. A prolongation of the accreditation can be made conditional, if it is discovered in the course of the accreditation procedure that not all requirements are met and if the assessment is made that these shortcomings can be rectified within a reasonable period of time. If the accreditation is made conditional, the educational institution shall submit a development plan to the Agency for Quality Assurance and Accreditation Austria and shall demonstrate within a period of two years that the conditions have been met. Failure to comply with this provision shall result in the accreditation being revoked by official notification.

(9) After an uninterrupted accreditation period of twelve years, the educational institution shall undergo an audit according to § 22. Thereafter, audits shall be performed every seven years. After a positive certification, the accreditation shall remain in force. If the certification is made conditional, the provider shall submit a

development plan to the Agency for Quality Assurance and Accreditation Austria and shall, within a period of two years, demonstrate that the conditions have been met. If no certification is awarded even after a re-audit according to § 22 para. 6, the institutional accreditation shall lapse two years after the announcement of the negative decision, unless a new institutional accreditation is awarded during this period. The lapse of the accreditation shall be declared by the Board by official notification.

(10) The regulations under para. 4 shall apply by analogy to applications for the accreditation of additional degree programmes.

Accreditation of Private Universities and Degree Programmes at Private Universities

§ 24. (1) The accreditation as a private university and of degree programmes at private universities is subject to the accreditation requirements stipulated in the Act on Private Universities and the assessment areas named in paras. 3, 4 or 5.

(2) Those legal entities that submit their initial application for accreditation as a private university shall undergo an institutional accreditation and a programme accreditation.

(3) The assessment areas of the institutional accreditation shall, as a minimum, include:

1. Objectives and profile;
2. development planning;
3. degree programmes and teaching;
4. research and development / appreciation and advancement of the arts;
5. organisation of the higher education institution and its activities;
6. funding and resources;
7. national and international cooperation;
8. quality management system.

(4) The assessment areas of the programme accreditation for the degree programme applied for shall, as a minimum, include:

1. Degree programme and degree programme management;
2. staff;
3. quality assurance;
4. funding and infrastructure;
5. research and development;
6. national and international cooperation.

(5) The assessment areas of the programme accreditation for certificate university programmes for further education shall, as a minimum, include:

1. Degree programme and degree programme management;
2. staff;
3. quality assurance;
4. funding and infrastructure;
5. involvement of the certificate university programme in research and development or advancement and appreciation of the arts.

(6) The Board shall issue a decree upon completion of a public assessment procedure that lays down the assessment areas and the methodological principles of the institutional accreditation and the programme accreditation.

(7) If the applying institution meets all requirements, an accreditation limited to six years shall be awarded. The official accreditation notification shall, as a minimum, include the following information:

1. Period of accreditation;
2. name of the legal entity of the educational institution;
3. title, type, workload of the degree programmes, and duration of the degree programmes;
4. denomination of the academic degrees to be awarded;
5. any other conditions to be met.

(8) A prolongation of an institutional accreditation for six years shall be permissible upon application, if the requirements under paras. 1 and 3 are still met. The prolongation of the accreditation includes also the degree programmes already accredited at this point. The prolongation shall be applied for nine months before the end of the accreditation period at the latest. If the institutional accreditation is not renewed, all programme accreditations of the educational institution shall be revoked.

(9) The initial accreditation of an educational institution or of degree programmes shall not be made conditional. A prolongation of the accreditation can be made conditional, if it is discovered in the course of the accreditation procedure that not all requirements are met and if the assessment is made that these shortcomings can be rectified within a reasonable period of time. If the accreditation is made conditional, the educational institution shall submit a development plan to the Agency for Quality Assurance and Accreditation Austria and shall demonstrate within a period of two years that the conditions have been met. Failure to comply with this provision shall result in the accreditation being revoked by official notification.

(10) After twelve years of uninterrupted accreditation, the accreditation can be awarded for twelve years at a time.

(11) The provisions of paras. 4 and 5 shall apply by analogy to applications for the accreditation of additional degree programmes.

(12) A prolongation of the programme accreditation shall not be permissible. The prolongation of degree programmes shall be a part of the prolongation of an institutional accreditation under para. 8.

Accreditation Competence and Procedure

§ 25. (1) The Board in its capacity as the competent body for accreditation shall decide on applications for accreditation and for the prolongation of the accreditation.

(2) The application shall include:

1. Name of the applying legal entity; if the applying institution is a legal entity governed by private law, an excerpt from the company register or register of associations shall be submitted as well;
2. all documents that serve to prove the fulfilments of the legally mandated accreditation requirements.

(3) The accreditation, its prolongation, its revocation, and its expiry shall be confirmed by official notification. The members of the Board shall be independent and

not be bound by any instructions in the exercise of their office. The decision of the Board shall be subject to approval by the competent Federal Minister prior to the issuing of the official notification. Approval shall not be given, if the decision violates any provision under this Act or is in conflict with national higher-education objectives.

(4) The official accreditation notification shall be amended or modified upon application or ex officio in case of changes in the content of the official notification.

(5) Against an official notification there shall be no regular legal remedy.

(6) The General Administrative Procedure Act and the Service of Documents Act, Federal Law Gazette No. 200/1982, shall apply to the accreditation procedure, the accreditation prolongation, its revocation, and the confirmation of its expiry, provided that:

1. The application that initiates the procedure can only be modified before the reports by the assessors have been received;
2. the period within which a decision is to be taken shall be nine months.
3. The Federal Minister is not the competent higher authority in the subject matter according to § 73 para. 2 of the General Administrative Procedure Act.

Expiry and Revocation of the Accreditation

§ 26. (1) The accreditation shall expire:

1. In case of a limited accreditation upon expiry of the term, unless an application for prolongation is submitted at the latest nine months prior to expiry of the accreditation. If the procedure for the prolongation of the accreditation is not concluded within nine months, the accreditation shall be extended until the conclusion of the procedure. The expiry shall be confirmed by official notification;
2. in case of the dissolution of the legal entity acting as legal entity of the educational institution, at the time of its dissolution;
3. in case of the revocation of all programme accreditations or of the institutional accreditation of the educational institution.

(2) The Board shall, by official notification, revoke the accreditation:

1. If the legal prerequisites according to the University of Applied Sciences Studies Act or the Act on Private Universities are not fulfilled for an uninterrupted period of at least six months;
2. in case of non-compliance with the obligation to report, provide information, and participate in data collection according to the Education Documentation Act, Federal Law Gazette I No. 12/2002, and the University of Applied Sciences Studies Act;
3. in cases where non-accredited degree programmes are offered that are intended to lead to academic degrees;
4. in case of serious violations of legal regulations, if this puts the regular management of the degree programme in danger;
5. in the cases named under §§ 23 and 24.

(3) If the accreditation of University of Applied Sciences degree programmes or of degree programmes at private universities has lapsed or was revoked, the provider or the private university's owner shall submit a proposal to the Agency for Quality Assurance and Accreditation Austria that makes it possible for students of the degree programmes concerned to finish their studies within a period of time that shall not

exceed the prescribed period of studies by more than one year. The provider or the private university's owner shall make financial provisions for the financing of degree programmes that are to be discontinued. Proof of these provisions shall be supplied as part of the accreditation procedure.

(4) In order to make it possible for students to finish their studies according to para. 3, the Board may award a one-time limited programme accreditation for the degree programmes concerned.

Section 5

Registration of Cross-Border Degree Programmes

§ 27. (1) Educational institutions that are recognised in their country of origin or country of domicile as postsecondary in the meaning of § 51 para. 2 subpara. 1 of the Universities Act may offer degree programmes in Austria, if these constitute a recognised education in the meaning of § 51 para. 2 subpara. 1 of the Universities Act in their country of origin or country of domicile and if these degree programmes and academic degrees are comparable with Austrian degree programmes and academic degrees. The degree programmes at universities under the Universities Act and at the University for Continuing Education Krems according to the Act on the Danube University Krems 2004, at the Institute of Science and Technology Austria according to the Act on the Institute of Science and Technology Austria, Federal Law Gazette I No. 69/2006, and the degree programmes at state and public university colleges for education or private degree programmes under the Federal Act on the Organisation of University Colleges of Teacher Education 2005, Federal Law Gazette I No. 30/2006, as well as certificate programmes for further education according to the University of Applied Sciences Studies Act shall be deemed to be registered pursuant to the named Acts, and the degree programmes at private universities and the University of Applied Sciences degree programmes after an accreditation according to §§ 23 and 24.

(2) An educational institution submitting an application shall present the following to the registration office:

1. A certificate confirming that the educational institution is recognised as postsecondary educational institution according to the provisions of the country of origin or country of domicile;
2. documented evidence of the right to offer degree programmes lasting for at least six semesters, the admission to which requires the general university entrance qualification or an examination to demonstrate artistic aptitude, or the right to offer subsequent degree programmes as well as the right to award academic degrees according to the provisions of the country of origin or country of domicile;
3. information on the degree programmes planned in Austria or planned in cooperation with Austrian institutions together with their curricula and academic degrees;
4. confirmation by the authority competent for higher education in the country of origin or country of domicile that the degree programmes offered in Austria and the respective academic degrees according to subpara. 3 are legally effective in the country of origin or country of domicile.

(3) The competent Federal Minister shall act as registration office. The General Administrative Procedure Act and the Service of Documents Act shall apply to the procedure. § 25 para. 6 shall apply by analogy.

(4) The registration office shall inspect the documents submitted. If the documents are complete, authentic and correct, the foreign postsecondary educational institution shall be registered. Registered educational institutions shall be entitled to begin operations and offer degree programmes in Austria.

(5) If the documents named in paras. 1 and 2 are not presented or the requirements stipulated are not met, the educational institution shall not begin operations. It shall not be permissible in this case to offer the respective degree programmes in Austria.

(6) The registration office shall compile a directory of the registered educational institutions and degree programmes and shall keep the directory up to date. This directory shall be published by the registration office in an appropriate manner.

(7) The registration of degree programmes by the registration office shall not constitute the confirmation of equivalence to Austrian degree programmes and corresponding Austrian academic degrees. The degree programmes and academic degrees shall be regarded as those of the country of origin or the country of domicile of the educational institution.

Section 6 Reporting

§ 28. (1) The Board shall annually prepare an activity report and shall submit it to the competent Federal Minister. This report shall include, in particular, the quality assurance procedures performed, staff development, and the funds used. The report shall be submitted to the National Council by the competent Federal Minister and, furthermore, shall be published by the Board in an appropriate manner.

(2) Based on the annual reports by the providers of University of Applied Sciences degree programmes and by private universities to the Agency for Quality Assurance and Accreditation Austria and based on the reports submitted by universities according to the Universities Act and the University for Continuing Education Krems according to the Act on the Danube University Krems 2004, the Agency for Quality Assurance and Accreditation Austria shall prepare and publish a report on the development of the quality assurance at higher education institutions at least every three years.

(3) The Agency for Quality Assurance and Accreditation Austria shall forward to the competent Federal Minister all statistical data on the University of Applied Sciences sector that are available to the Agency.

Section 7 Supervision

Supervision of the Providers of University of Applied Sciences Degree Programmes and Private Universities

§ 29. (1) The Board shall be entitled to or, upon request by the competent Federal Minister, obliged to obtain information from the accredited educational institutions at any time about all matters that make it possible to check the fulfilment of the requirements for the accreditation. If necessary for the exercise of this supervision right, the competent bodies of the providers of University of Applied Sciences degree programmes and the private universities shall be obliged to provide information on all matters concerning degree programmes or the educational institution, to present and

forward any papers and documents on the respective case, and to permit inspections in situ.

(2) The Board shall also be obliged, upon request by the Federal Minister competent for health, to obtain information from the accredited educational institutions at any time about all matters that make it possible to check the fulfilment of the requirements for the accreditation with regard to health regulations. Para. 1, second sentence, shall apply, provided that two experts nominated by the Federal Minister competent for health are called in. Contingent on the nature of the information, a procedure according to § 26 para. 2 shall be carried out, where applicable.

Supervision of the Agency for Quality Assurance and Accreditation Austria

§ 30. (1) The Agency for Quality Assurance and Accreditation Austria is subject to supervision by the competent Federal Minister and the supervision by the Court of Audit and the People's Advocate's Office. Supervision by the competent Federal Minister shall encompass conformity with all laws and decrees as well as the fulfilment of the tasks assigned to the Agency for Quality Assurance and Accreditation Austria.

(2) The competent Federal Minister shall be entitled to request information on all and any matters concerning the Agency for Quality Assurance and Accreditation Austria. The Agency for Quality Assurance and Accreditation Austria shall be obliged to provide information on its activities, to submit all documents relating to matters specified by the competent Federal Minister, and to have investigations conducted in situ.

(3) The competent Federal Minister shall annul decisions and official notifications by the Board or prohibit their implementation, if the respective decisions or official notifications are in conflict with acts and decrees in force. In this case, the Board shall, without delay, bring about the legal situation which accords with the Federal Minister's legal opinion.

(4) The Board shall be entitled to be a party in supervisory proceedings and shall have the right to appeal to the Administrative Court against the official notification issued upon conclusion of the proceedings.

(5) Personal data shall be excluded from the disclosure according to § 28 or the duty to supply information according to §§ 29 and 30.

Section 8 Student Ombudsman

§ 31. (1) An office that is not bound by any instructions and provides ombuds services, information, and other services for students at higher education institutions shall be established at the Federal Ministry of Science and Research. Hereinafter students also mean persons interested in beginning a degree programme as well as former students.

(2) The student ombudsman shall provide information and services in the area of higher education on the topics and cases it is concerned with. For this matter, it shall collaborate with the student representatives and shall periodically organise events for the purpose of sharing information with institutions that deal with matters relevant to students.

(3) Each student shall have the right to turn to the student ombudsman for information and advice on matters related to degree programmes, teaching,

examinations, services, and administration at higher education institutions. Each such inquiry shall be dealt with by the student ombudsman. The student and the educational institution shall be informed about the results as well as, if applicable, any measures taken.

(4) The student ombudsman shall have the right to request information from the respective bodies and members of the educational institutions concerning the matters brought forward by students. The bodies and members of the educational institutions shall be obliged to provide the student ombudsman with the requested information in the matters it deals with.

(5) The student ombudsman can act as an advisor to the bodies of the educational institution.

(6) The student ombudsman shall be bound to observe confidentiality with regard to all facts and information that come to its attention exclusively as a result of its activities.

(7) The student ombudsman shall annually prepare a report on its activities. The report for the preceding academic year shall be submitted to the competent Federal Minister and the National Council by 15 December of each year at the latest. The report shall be published.

Section 9

Penal Provisions

§ 32. Anyone who deliberately or due to gross negligence runs a degree programme or an educational institution that shall be accredited or registered according to the provisions of this Act without having obtained such accreditation or registration or awards, grants or uses a designation specific to the higher education system or academic degrees without being authorised to do so according to the provisions of this Act, is committing an administrative offence punishable by the locally competent district administration by a fine of up to EUR 25,000, if the act does not constitute a punishable offence coming under the jurisdiction of a court of law or is not according to other rules of administrative penalty subject to more severe punishment.

Section 10

Staff

Permanent Federal Civil Servants, Federal Contractual Employees

§ 33. (1) Employees who have employment contracts with the Federal Government under public or private law and are assigned to the Management Offices of the University of Applied Sciences Council according to the University of Applied Sciences Studies Act or of the Accreditation Council according to the University Accreditation Act on the day before the entry into force of this Act, shall be assigned to the Management Office of the Agency for Quality Assurance and Accreditation Austria at the time of the entry into force of this Act.

(2) Until 31 August 2012, the employees under para. 1 shall also render services in connection with the procedures to be concluded by the University of Applied Sciences Council and the Accreditation Council to the extent necessary.

(3) The assignment according to para. 1 shall be deemed to be a secondment, the employees shall remain in the directory of budgeted posts of the Federal Government

and shall be paid and administered by the Federal Ministry of Science and Research. The staff supervision and functional supervision of these employees shall be with the President of the Board of the Agency for Quality Assurance and Accreditation Austria.

New Entrants and Legal Basis of Employments

§ 34. (1) Persons newly employed by the Agency for Quality Assurance and Accreditation Austria after the entry into force of this Act shall be subject to the Salaried Employees Act, Federal Law Gazette No. 292/1921, as well as any other relevant regulations under private law.

(2) All employees of the Agency for Quality Assurance and Accreditation Austria shall be subject to the Federal Equal Treatment Act, Federal Law Gazette No. 100/1993.

Section 11

Entry into Force and Enactment

References

§ 35. References to other federal acts contained in this Act shall be deemed to be references to the current versions.

Transitional Provisions

§ 36. (1) The initial nomination of the members of the General Meeting according to § 11 shall be completed by 1 October 2011. In case of a delay, the competence for the nomination shall be transferred to the competent Federal Minister.

(2) Educational institutions that offer degree programmes in the meaning of § 27 at the time of the entry into force of this Act, shall undergo a registration process according to § 27 by 31 December 2012 at the latest.

(3) Audits at universities under the Universities Act and at the University for Continuing Education Krems that were performed prior to the entry into force of this Act shall be recognised, if the audit was performed by a quality assurance agency registered with the EQAR or any another independent and internationally recognised quality assurance agency according to § 19.

(4) Title to the movable assets owned by the Federal Government and assigned to the University of Applied Sciences Council according to the University of Applied Sciences Studies Act and the Accreditation Council according to the University Accreditation Act for their use as of the day before the entry into force of this Act, shall on the day in which this Act enters into full effect, including all associated rights and legal relationships, claims and debts, pass by universal succession to the Agency for Quality Assurance and Accreditation Austria and shall be recorded and valued in an inventory register by the Agency. Title to the movable assets owned by the Federal Government and hitherto managed and used by the University of Applied Sciences Council and the Accreditation Council, including equipment, rights and legal relationships, claims and debts, shall at the time of the entry into force of this Act pass by universal succession to the Agency for Quality Assurance and Accreditation Austria.

(5) Valuations for the assets transferred shall be entered in the opening balance sheet, which shall be prepared within nine months after the entry into force of this Act. The valuations in the opening balance sheet shall not have to be linked to the acquisition costs and production costs. The valuations of technical equipment and

assets shall be effected according to possibilities of utilisation, taking into account the current state of the art. The opening balance sheet shall include as an appendix a summary of those assets and liabilities of the University of Applied Sciences Council and the Accreditation Council that can be logically allocated to this area and are regarded as necessary for operation, and this appendix shall make it possible to identify the debtor and creditor positions that are transferred. Furthermore, the appendix shall contain all assets and liabilities not evident from the balance sheet that belong to the reorganised business establishments. The valuations in the opening balance sheet shall be audited and verified by an auditor. The competent Federal Minister shall appoint the auditor.

Entry into Force

§ 37. (1) §§ 4 to 13 and § 36 para. 1 of this Act shall enter into force upon the expiry of the day they become accessible in the Federal Legal Information System.

(2) All other provisions hereunder shall enter into force on 1 March 2012.

Enactment

§ 38. The following are entrusted with the enactment of this Federal Act:

1. with respect to the supervision of the fulfilment of the requirements for the accreditation with regard to health regulations provided for in § 29 para. 2, the Federal Minister for Health;
2. with respect to all other provisions, the Federal Minister for Science and Research.