

Chapter:	493	NON-LOCAL HIGHER AND PROFESSIONAL EDUCATION (REGULATION) ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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An Ordinance to provide for the regulation of courses of higher and professional education leading to the award of non-local qualifications conducted in Hong Kong and matters connected therewith.

(Enacted 1996)

[The Ordinance, other than sections 3, } 11, 12(4), 15, 16, 25, 26, 27, 28, 29, } 30, 31, 32, 34(1) and (3), 43 and 44 } }	20 June 1997	<i>L.N. 352 of 1997</i>
Sections 3, 11, 12(4), 15, 16, 25, 26, } 27, 28, 29, 30, 31, 32, 34(1) and (3), } 43 and 44 } }	1 December 1997	<i>L.N. 566 of 1997</i>

(Originally 50 of 1996)

Part:	I	PRELIMINARIES AND RESTRICTION ON NON-LOCAL HIGHER OR PROFESSIONAL EDUCATION		30/06/1997
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(Enacted 1996)

Section:	1	Short title		30/06/1997
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- (1) This Ordinance may be cited as the Non-local Higher and Professional Education (Regulation) Ordinance.
- (2) (Omitted as spent)

(Enacted 1996)

Section:	2	Interpretation	L.N. 90 of 2007	01/10/2007
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- (1) In this Ordinance, unless the context otherwise requires-
 - "academic community" (學術群體) in relation to a country, means all academic institutions of higher education, organizations or bodies that take part in monitoring, maintaining or accrediting the academic standards of courses of higher education conducted in that country;
 - "Accreditation Council" (評審局) means the Hong Kong Council for Accreditation of Academic and Vocational Qualifications established by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications Ordinance (Cap 1150); (Amended 6 of 2007 s. 52)
 - "advertisement" (廣告) includes any notice, poster, circular and document, and any announcement made orally or by means of producing or transmitting light, image or sound;
 - "Appeal Board" (上訴委員會) means the Non-local Higher and Professional Education Appeal Board constituted under section 26;
 - "Chairman" (主席) means the Chairman of the Appeal Board appointed under section 26(2);
 - "country" (國家) includes any state, province or any territorial entity or part which partly comprises the country;
 - "Deputy Chairman" (副主席) means a Deputy Chairman of the Appeal Board appointed under section 26(2);
 - "designated person" (指定人士) in relation to a registered course, means the person who has given an undertaking referred to in section 10(1)(c)(iii) or 36(2) or (4) in respect of the course and has not been replaced under section 36;
 - "executive head" (行政主管), in relation to a local institution of higher education, means the person specified opposite to the institution in column 3 of Schedule 1 and includes any person duly authorized to act in his capacity;

"exempted course" (獲豁免課程) means an exempted course within the meaning of section 8;

"function" (職能) includes power and duty, and performance of a function includes exercise of a power and discharge of a duty;

"higher academic qualification" (高等學術資格) means any sub-degree, degree or postgraduate qualification or other academic award or title which is at or beyond the level of post secondary education within the meaning of the Education Ordinance (Cap 279);

"higher education" (高等教育) means education which is generally provided to students who have had received secondary education within the meaning of the Education Ordinance (Cap 279);

"identity card" (身分證) means an identity card within the meaning of the Registration of Persons Ordinance (Cap 177);

"inspection officer" (視察主任) means an inspection officer appointed under section 23;

"local institution of higher education" (本地高等教育機構) means an institution specified in column 2 of Schedule 1;

"non-local institution" (非本地機構) means an institution which is established and mainly operates outside Hong Kong;

"non-local professional body" (非本地專業團體) means a professional body which is established and mainly operates outside Hong Kong;

"operator" (主辦者) in relation to a course of education (whether a regulated course or not), means the person, institution or body which-

- (a) is in charge of the conducting of the course in Hong Kong; or
- (b) enters into a contract with another person under which the course is offered to that other person, other than, as regards an exempted course, the local institution of higher education in collaboration with which the course is conducted;

"prescribed fee" (訂明費用) means a fee prescribed in rules made under section 40(1)(e);

"professional qualification" (專業資格) means a qualification in respect of a profession in a discipline specified in Schedule 2 and includes any professional title and membership of a professional body;

"recognized non-local institution" (獲認可非本地機構) means a non-local institution which is recognized by the relevant accreditation authority in the relevant country or, where in the opinion of the Registrar there is no such authority, the academic community in that country, as qualified to award higher academic qualifications which are recognized as such generally by that institution, the academic community and the accreditation authority (if any);

"register" (註冊紀錄冊) means the register kept in accordance with section 7;

"registered course" (經註冊課程) means a course which is for the time being registered under section 10;

"Registrar" (處長) means the Registrar of Non-local Higher and Professional Education Courses;

"regulated course" (受規管課程) means a course of education conducted in Hong Kong consisting of lectures, tutorials, seminars, group discussion sessions, instruction, or dissemination of information or materials or any combination of those elements which leads to the award of any non-local higher academic qualification or non-local professional qualification and includes, where the context admits, a proposed such course;

"relevant accreditation authority" (有關評審當局) in relation to a country, means any person, institution or body which is generally recognized by the academic community in that country as being able to make authoritative assessment and evaluation of and give official recognition to the academic standard of-

- (a) institutions awarding higher academic qualifications in that country; and
- (b) courses leading to the award of higher academic qualifications;

"telecommunications" (電訊) has the same meaning as in the Telecommunications Ordinance (Cap 106). (Amended 36 of 2000 s. 28)

- (2) Subject to subsection (3), for the purposes of this Ordinance-
 - (a) a course shall be regarded as leading to the award of a non-local higher academic qualification if-
 - (i) a student of the course may, upon fulfilment of certain conditions, be-
 - (A) awarded any higher academic qualification by a non-local institution; or
 - (B) recognized as having fulfilled any condition for the purpose of the award of any higher

- academic qualification by a non-local institution,
 - by virtue of his attending or completing the course; or
 - (ii) the purpose of the course is claimed by the operator of the course to be to prepare a student of the course for any examination, test or other assessment the sitting for, passing or undergoing of which-
 - (A) will qualify the person who so sits, passes or undergoes for the award of any higher academic qualification by a non-local institution; or
 - (B) will be recognized as the fulfilment of any condition for the purpose of the award of any higher academic qualification by a non-local institution;
- (b) a course shall be regarded as leading to the award of a non-local professional qualification if-
 - (i) a student of the course may, upon fulfilment of certain conditions, be-
 - (A) awarded any professional qualification; or
 - (B) recognized as having fulfilled any condition for the purpose of the award of any professional qualification,
 by a non-local professional body by virtue of his attending or completing the course; or
 - (ii) the purpose of the course is claimed by the operator of the course to be to prepare a student of the course for any examination, test or other assessment the sitting for, passing or undergoing of which-
 - (A) will qualify the person who so sits, passes or undergoes for the award of any professional qualification by a non-local professional body; or
 - (B) will be recognized as fulfilment of any condition for the purpose of award of any professional qualification by a non-local professional body.

(3) Where upon the completion of a course of education conducted in Hong Kong solely by a local institution of higher education, a student is awarded, by the institution, a qualification which is recognized by a non-local institution or non-local professional body as the fulfilment of any condition for the purposes of the award of a non-local higher academic qualification by that non-local institution or the award of a non-local professional qualification by that professional body, the course shall not be regarded as leading to the award of a non-local higher academic qualification or non-local professional qualification unless the course is conducted solely or mainly for the purpose of the said recognition.

(4) For the purposes of this Ordinance, a course of education shall be regarded as being conducted in Hong Kong if any of the following activities is undertaken in Hong Kong in relation to or for the purpose of the course-

- (a) holding of lectures, tutorials, seminars or group discussion sessions or dissemination of information or materials otherwise than for the purpose of inducing or facilitating enrolment in the course;
- (b) conducting examinations, tests or other assessments otherwise than for the purpose of assessing the suitability of a person for enrolment in the course or any part of the course.

(5) For the purposes of subsection (4)(a)-

- (a) delivery of mail originated in a place outside Hong Kong to a person in Hong Kong;
- (b) sale or offer for sale of materials to the general public in the course of business; and
- (c) transmission of images, sounds, words or electronic data from a place outside Hong Kong to a recipient in Hong Kong by means of telecommunications, (Amended 36 of 2000 s. 28)

shall not be regarded as dissemination of information or materials.

(6) For the purposes of subsection (4)-

- (a) lectures, tutorials, seminars or group discussion sessions shall not be regarded as being conducted in Hong Kong if they are in the form of communication between a person who is not physically present in Hong Kong and participants in Hong Kong by means of telecommunications or by mail;
- (b) examinations, tests or other assessments shall not be regarded as being conducted in Hong Kong if they are in the form of communication between a person who is not physically present in Hong Kong and participants in Hong Kong by means of telecommunications or by mail. (Amended 36 of 2000 s. 28)

(7) Where the duration of a regulated course exceeds 3 months-

- (a) each month during which the course is conducted; and
- (b) the month in which the course commences or ends,

shall, for the purposes of sections 10(3)(d), 13(1)(c) and 14(1)(c), be taken as a part of the course.

(Enacted 1996)

Section:	3	Restriction on non-local higher or professional education	L.N. 566 of 1997	01/12/1997
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- (1) No person shall-
- (a) conduct any regulated course; or
 - (b) enter into a contract, whether as agent or principal, with any other person under which a regulated course is offered to that other person; or
 - (c) own or manage an institution or body which undertakes any activity referred to in paragraph (a) or (b),
- unless-
- (i) the course is an exempted course;
 - (ii) the course is a registered course; or
 - (iii) the course is conducted-
 - (A) by a school registered or provisionally registered within the meaning of section 3 of the Education Ordinance (Cap 279); or
 - (B) by a local institution of higher education, otherwise than in collaboration with a non-local institution or non-local professional body.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (Enacted 1996)

Section:	4	Saving of rights, etc. under contracts for courses not exempted or registered		30/06/1997
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A contract under which a regulated course which is not an exempted course or registered course is offered shall not be void or voidable solely by reason of the course's not being an exempted course or registered course, and accordingly the rights, powers, duties and liabilities under the contract shall not be invalid or unenforceable solely by reason of the course's not being an exempted course or registered course.

(Enacted 1996)

Part:	II	REGISTRAR AND REGISTER	L.N. 130 of 2007	01/07/2007
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(Enacted 1996)

Section:	5	The Registrar	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

- (1) The Permanent Secretary for Education or a public officer appointed by him shall be the Registrar of Non-local Higher and Professional Education Courses. (Amended 3 of 2003 s. 41; L.N. 130 of 2007)
 - (2) The Registrar shall have such functions as are imposed or conferred on him by this Ordinance and any other law.
 - (3) Any appointment made under subsection (1) shall be notified in the Gazette.
- (Enacted 1996)

Section:	6	Delegation by Registrar		30/06/1997
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- (1) Subject to subsection (2), the Registrar may, with or without restrictions as he thinks fit, delegate in writing any of his functions under this Ordinance to any public officer.
- (2) The Registrar shall not delegate any of his functions under-
 - (a) section 10(3);
 - (b) section 14(1); and
 - (c) section 23.
- (3) A delegate of the Registrar shall-

- (a) perform the delegate functions as if the delegate were the Registrar himself;
- (b) be presumed to be acting in accordance with the terms of the delegation in the absence of evidence to the contrary.

(Enacted 1996)

Section:	7	The register		30/06/1997
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- (1) The Registrar shall keep a register of exempted courses and registered courses.
- (2) The register shall-
 - (a) be in such form;
 - (b) be divided into such parts; and
 - (c) contain such particulars,

as the Registrar thinks fit.

(3) The register may be kept in legible or non-legible form but if kept in non-legible form, it shall be kept in a manner that any entry in the register is capable of being reproduced in legible form.

(4) The register shall be kept at such place as the Registrar may determine and shall be available for inspection by the general public during normal office hours free of charge.

(5) Where a person applies to the Registrar for a copy of an entry in the register certified by the Registrar as correct, such copy shall be issued to the applicant on payment by him of a prescribed fee.

(6) A document purporting to be a copy of an entry in the register and to be certified by the Registrar as a correct copy and to be signed by him shall, unless the contrary is proved, be evidence of the entry and shall be received in evidence without further proof as to the contents of the document and the signature thereon.

(Enacted 1996)

Part:	III	EXEMPTION FROM REGISTRATION	L.N. 130 of 2007	01/07/2007
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(Enacted 1996)

Section:	8	Exemption	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

- (1) A regulated course shall be an exempted course for the purposes of this Ordinance if-
 - (a) the executive head of a local institution of higher education furnishes the Registrar with a certificate certifying that-
 - (i) the course is conducted by a non-local institution or non-local professional body which mainly operates in a country outside Hong Kong in collaboration with that local institution of higher education;
 - (ii) the course-
 - (A) is not funded wholly or partly by any fund allocated by the Government out of the general revenue to that local institution of higher education; or
 - (B) is funded wholly or partly by any fund allocated by the Government out of the general revenue to that local institution of higher education with the written consent of the Secretary for Education ; and (Amended L.N. 130 of 2007)
 - (iii) (A) (in the case of a course purporting to lead to the award of a non-local higher academic qualification by that non-local institution)-
 - (I) that non-local institution is a recognized non-local institution; and
 - (II) effective measures are in place to ensure that the standard of the course is maintained at a level comparable with a course conducted in that country leading to the same qualification and is recognized as such by that institution, the academic community in that country and the relevant accreditation authority in that country (if any);
 - (B) (in the case of a course purporting to lead to the award of a non-local professional qualification by that non-local professional body)-

- (I) the course is recognized by that professional body for the purpose of awarding the qualification or of the claimed purpose referred to in section 2(2)(b)(ii); and
 - (II) that professional body is generally recognized in that country as an authoritative and representative professional body in the relevant profession;
- (b) the Registrar receives within 1 month after 31 December of each year during which the course is conducted in Hong Kong-
- (i) a report containing such information as may be required by the Registrar relating to the course; and
 - (ii) a certificate by the executive head of that local institution of higher education certifying the conditions set out in subparagraphs (i), (ii) and (iii)(A) or, as the case may be, (iii)(B) of paragraph (a) have been complied with in relation to the course throughout the period during which the course is conducted in the year;
- (c) the certificate referred to in paragraph (a) is accompanied by such information or document as may be specified by the Registrar;
- (d) the certificate referred to in paragraph (a) or (b)(ii) is accompanied by the prescribed fee;
- (e) no rule made under section 40(1)(c) or (d) has been contravened in relation to the course; and
- (f) the requirement of subsection (9) is complied with in relation to the course.
- (2) A certificate referred to in subsection (1)(a) shall be delivered to the Registrar-
- (a) in the case of a course which is being conducted at the commencement date appointed under section 1(2), within 1 month after such commencement date;
 - (b) in any other case, before the course commences.
- (3) The Registrar may in his absolute discretion extend the period referred to in subsections (1)(b) and (2)(a).
- (4) A certificate referred to in subsection (1)(a) or (b)(ii) shall be of no effect if it is false in any material particular.
- (5) The Registrar may by notice in writing require the operator of an exempted course to give to the Registrar within such period as is specified in the notice (being a period not less than 1 month beginning on the date of the notice) any information or document which-
- (a) relates to the course; and
 - (b) is in the possession of the operator or under his control.
- (6) The Registrar may in his absolute discretion extend the period specified in a notice under subsection (5).
- (7) An operator who without reasonable excuse fails to comply with a requirement made of him under subsection (5) commits an offence and is liable on conviction to a fine at level 3.
- (8) The Registrar may obtain, from the Accreditation Council or such other person or organization as he thinks fit, such advice as is reasonably required to enable him to verify the content of any certificate referred to in subsection (1)(a) or (b)(ii).
- (9) Where the Registrar incurs any expenses in obtaining an advice under subsection (8) in respect of a certificate furnished by the executive head of a local institution of higher education-
- (a) that institution shall pay to the Registrar a sum of money equal to such expenses within such reasonable period as the Registrar may specify;
 - (b) such sum, if unpaid under paragraph (a), shall be recoverable from that institution as a civil debt.

(Enacted 1996)

Section:	9	Disclosure of certain information by Registrar	30/06/1997
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The Registrar may send a copy of any certificate or report received by him pursuant to section 8(1)(a) or (b) or any information or document received by him pursuant to section 8(1)(c) or (5) to such persons as he thinks fit and-

- (a) shall make such certificate and report; and
- (b) may make such information or document,

available for inspection by the general public at the office of the Registrar during normal office hours free of charge.

(Enacted 1996)

Part:	IV	REGISTRATION OF COURSES	30/06/1997
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(Enacted 1996)

Section:	10	Registration	30/06/1997
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(1) An application for the registration of a course which, but for the operation of section 2(5) or (6), would have fallen within the definition of "regulated course" in section 2(1) by virtue of section 2(4) or a regulated course under this Ordinance shall be-

- (a) made by the operator of the course to the Registrar;
- (b) made in such form as may be specified by the Registrar; and
- (c) accompanied by-
 - (i) the prescribed fee;
 - (ii) a sum the amount of which is specified by the Registrar;
 - (iii) an undertaking given by a person who is-
 - (A) ordinarily resident in Hong Kong;
 - (B) the holder of an identity card; and
 - (C) accepted by the Registrar as a fit person to give such undertaking, stating that he undertakes to perform in relation to the course the functions imposed on a designated person by this Ordinance; and
 - (iv) such information or document as may be specified by the Registrar.

(2) Where the Registrar receives an application under subsection (1), he may require the applicant to supply to him such information or document as he shall specify which is reasonably required to enable him to determine the application.

(3) The Registrar may, upon an application under subsection (1) in respect of a course leading to the award of a non-local higher academic qualification by a non-local institution which mainly operates in a country outside Hong Kong or a non-local professional qualification by a non-local professional body which mainly operates in a country outside Hong Kong, register the course if he is satisfied that-

- (a) (in the case of a course purporting to lead to the award of a non-local higher academic qualification)-
 - (i) the institution is a recognized non-local institution; and
 - (ii) effective measures are in place to ensure that the standard of the course is maintained at a level comparable with a course conducted in that country leading to the same qualification and is recognized as such by that institution, the academic community in that country and the relevant accreditation authority in that country (if any);
- (b) (in the case of a course purporting to lead to the award of a non-local professional qualification)-
 - (i) the course is recognized by the professional body for the purpose of awarding the qualification or of the claimed purpose referred to in section 2(2)(b)(ii); and
 - (ii) the professional body is generally recognized in that country as an authoritative and representative professional body in the relevant profession;
- (c) the requirements of or under subsections (1) and (2) have been complied with in relation to the course;
- (d) it is or will be an express term in the contract between the operator and students that the tuition fee charged for any part of the course shall not be payable before-
 - (i) the period of 3 months; or
 - (ii) such other period as the Registrar may in his absolute discretion allow in a particular case, before the commencement of that part of the course; and
- (e) satisfactory arrangements for payment and refund of the fee charged for the course are in place to-
 - (i) cater for the operational need of the course; and
 - (ii) protect the students against financial losses resulting from premature cessation of the course.

(4) The Registrar may-

- (a) obtain, from the Accreditation Council or such other person or organization as he thinks fit, such advice as is reasonably required to enable him to determine an application under subsection (1); and
- (b) for such purpose send a copy of the application or any part of it or any information or document received by him pursuant to subsection (1)(c)(iv) or (2) to the Accreditation Council or such person or organization, as the case may be.

(5) Where the Registrar incurs any expenses in obtaining advice under subsection (4) in respect of an application-

- (a) the applicant shall be liable to pay to the Registrar a sum of money equal to such expenses;
- (b) the Registrar may apply the sum tendered under subsection (1)(c)(ii) in respect of the application towards the payment of such expenses and upon such application-

- (i) where such expenses exceed the sum tendered under subsection (1)(c)(ii)-
 - (A) the applicant shall pay to the Registrar an additional sum equal to the amount of such excess; and
 - (B) such additional sum, if unpaid under sub-subparagraph (A), shall be recoverable from the applicant as a civil debt;
- (ii) where the sum tendered under subsection (1)(c)(ii) exceeds such expenses, the Registrar shall refund the balance to the applicant as soon as practicable after the determination of the application.

(6) Where the Registrar does not incur any expenses in obtaining advice under subsection (4) in respect of an application, he shall refund the sum tendered under subsection (1)(c)(ii) to the applicant as soon as practicable after the determination of the application.

(7) A sum tendered under subsection (1)(c)(ii) shall not bear interest.

(8) Notwithstanding subsection (3), where an applicant fails to comply with subsection (5)(b)(i)(A), the Registrar may refuse his application.

(9) Where the Registrar allows an application for the registration of a course, he-

- (a) shall issue a certificate of registration to the operator of the course;
- (b) may make-
 - (i) the application or any part of it; or
 - (ii) any information or document received by him in relation to the course pursuant to subsection (1)(c)(iv) or (2),
 available for inspection by the general public at the office of the Registrar during normal office hours free of charge.

(10) Where the Registrar refuses an application under subsection (1), he shall give a written notice of the refusal to the applicant in which the reason for refusal shall be stated.

(Enacted 1996)

Section:	11	Appeal against Registrar's decision	L.N. 566 of 1997	01/12/1997
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Where the Registrar refuses an application for registration, the applicant may appeal to the Appeal Board against the refusal within 1 month after the date of the notice given under section 10(10).

(Enacted 1996)

Section:	12	Conditions of registration	L.N. 566 of 1997	01/12/1997
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(1) The Registrar may, upon the issue of a certificate of registration in respect of a course under section 10(9), impose such conditions in relation to the operation of the course as he thinks fit.

(2) The Registrar may from time to time impose such conditions in relation to the operation of a registered course as he thinks fit.

(3) A condition imposed under subsection (1) or (2) shall be notified in writing to the operator of the relevant course.

(4) Where the Registrar imposes any condition under subsection (1) or (2) in relation to a course, the operator of the course may appeal to the Appeal Board against the imposition of such condition within 1 month after the date of the notice given under subsection (3).

(Enacted 1996)

Section:	13	Proposal to cancel registration		30/06/1997
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(1) Where in relation to a registered course it appears to the Registrar that-

- (a) (in the case of a course leading to the award of a non-local higher academic qualification by a non-local institution which mainly operates in a country outside Hong Kong)-
 - (i) the institution is not a recognized non-local institution; or
 - (ii) the standard of the course is not maintained at a level comparable with a course conducted in that country leading to the same qualification or is not recognized as such by that institution, the academic community in that country and the relevant accreditation authority in that country (if any);

- (b) (in the case of a course leading to the award of a non-local professional qualification by a non-local professional body which mainly operates in a country outside Hong Kong)-
 - (i) the course is not recognized by that professional body for the purpose of awarding that qualification or of the claimed purpose referred to in section 2(2)(b)(ii); or
 - (ii) that professional body is not generally recognized in that country as an authoritative and representative professional body in the relevant profession;
- (c) any tuition fee charged for any part of the course is collected before-
 - (i) the period of 3 months; or
 - (ii) the period allowed by the Registrar under section 10(3)(d)(ii) in relation to the course, as the case may be, before the commencement of that part of the course;
- (d) the arrangement for payment and refund of the fee charged for the course fails to-
 - (i) cater for the operational need of the course; and
 - (ii) protect the students against financial losses resulting from premature cessation of the course;
- (e) a condition imposed under section 12(1) or (2) in respect of the course is not fulfilled;
- (f) the requirement of section 18(3), 19(2) or (3), 20(1), 21(3), 22(2)(a) or 36(2) has not been complied with in relation to the course; or
- (g) the course has ceased to be conducted,

the Registrar may issue a proposal to cancel the registration of the course.

- (2) Where the Registrar issues a proposal in respect of a registered course under subsection (1), he-
 - (a) (except where the proposal is issued on the ground referred to in subsection (1)(g)) shall give a notice in writing of the proposal to-
 - (i) the designated person of that course which notice may require him to cause a copy of the notice to be sent to each student of the course; and
 - (ii) the operator of that course;
 - (b) (where the proposal is issued on the ground referred to in subsection (1)(g)) shall publish a notice of the proposal-
 - (i) in English in at least one newspaper in the English language circulating daily in Hong Kong; and
 - (ii) in Chinese in at least 2 newspapers in the Chinese language circulating daily in Hong Kong; and
 - (c) (except where the proposal is issued on the ground referred to in subsection (1)(g)) may publish a notice of the notice referred to in paragraph (a)-
 - (i) in English in at least one newspaper in the English language circulating daily in Hong Kong; and
 - (ii) in Chinese in at least 2 newspapers in the Chinese language circulating daily in Hong Kong.
- (3) A notice given or published by the Registrar under subsection (2)(a) or (b) shall-
 - (a) state the reason for issuing the proposal; and
 - (b) state that representations as regards the proposed cancellation may be made to the Registrar within such period (being a period of not less than 1 month beginning on the date of the notice) as shall be specified in the notice.
- (4) The Registrar may on his own motion or on an application in writing by the operator of the relevant registered course in his absolute discretion-
 - (a) withdraw a proposal issued under subsection (1); or
 - (b) extend the period referred to in subsection (3).
- (5) Where the Registrar withdraws a proposal under subsection (4)(a), he shall-
 - (a) publish a notice of the withdrawal in all newspapers in which the notice (if any) relating to the proposal was published under subsection (2)(b) or (c); and
 - (b) give a notice in writing of the withdrawal to the operator of the course.

(Enacted 1996)

Section:	14	Cancellation of registration	30/06/1997
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(1) Where a notice is given in accordance with section 13(2)(a) or (b) in respect of a registered course and the period during which representations may be made as regards the proposed cancellation has expired, the Registrar, after considering such representations (if any), if he is satisfied that-

- (a) (in the case of a course leading to the award of a non-local higher academic qualification by a non-local institution which mainly operates in a country outside Hong Kong)-
 - (i) the institution is not a recognized non-local institution; or

- (ii) the standard of the course is not maintained at a level comparable with a course conducted in that country leading to the same qualification or is not recognized as such by that institution, the academic community in that country and the relevant accreditation authority in that country (if any);
- (b) (in the case of a course leading to award of a non-local professional qualification by a non-local professional body which mainly operates in a country outside Hong Kong)-
 - (i) the course is not recognized by that professional body for the purpose of awarding that qualification or of the claimed purpose referred to in section 2(2)(b)(ii); or
 - (ii) that professional body is not generally recognized in that country as an authoritative and representative professional body in the relevant profession;
- (c) any tuition fee charged for any part of the course is collected before-
 - (i) the period of 3 months; or
 - (ii) the period allowed by the Registrar under section 10(3)(d)(ii) in relation to the course, as the case may be, before the commencement of that part of the course;
- (d) the arrangement for payment and refund of the fee charged for the course fails to-
 - (i) cater for the operational need of the course; and
 - (ii) protect the students against financial losses resulting from premature cessation of the course;
- (e) a condition imposed under section 12(1) or (2) in respect of the course is not fulfilled;
- (f) the requirement of section 18(3), 19(2) or (3), 20(1), 21(3), 22(2)(a) or 36(2) has not been complied with in relation to the course; or
- (g) the course has ceased to be conducted,

may cancel the registration of the course.

- (2) Where the Registrar cancels the registration of a registered course, he shall-
 - (a) (except where the registration is cancelled on the ground referred to in subsection (1)(g)) give a notice in writing of the cancellation to-
 - (i) the designated person of that course requiring him to cause a copy of the notice to be sent to each student of the course; and
 - (ii) the operator of that course;
 - (b) (where the registration is cancelled on the ground referred to in subsection (1)(g)) publish a notice of the cancellation-
 - (i) in English in at least one newspaper in the English language circulating daily in Hong Kong; and
 - (ii) in Chinese in at least 2 newspapers in the Chinese language circulating daily in Hong Kong; and
 - (c) (except where the registration is cancelled on the ground referred to in subsection (1)(g)) publish a notice of the notice referred to in paragraph (a)-
 - (i) in English in at least one newspaper in the English language circulating daily in Hong Kong; and
 - (ii) in Chinese in at least 2 newspapers in the Chinese language circulating daily in Hong Kong.
- (3) A notice given or published by the Registrar under subsection (2)(a) or (b) shall-
 - (a) state the decision of the Registrar;
 - (b) state that appeal against the cancellation may be made to the Appeal Board within 1 month after the date of the notice; and
 - (c) state the date on which the cancellation will, subject to section 16(1), come into effect.

(Enacted 1996)

Section:	15	Appeal against cancellation	L.N. 566 of 1997	01/12/1997
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Where the Registrar cancels the registration of a registered course, the operator of that course may, within the period of 1 month after the date of the notice given under section 14(2)(a) or (b), appeal to the Appeal Board against the cancellation.

(Enacted 1996)

Section:	16	Coming into effect of cancellation	L.N. 566 of 1997	01/12/1997
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- (1) A cancellation under section 14 shall not come into effect-
 - (a) where no appeal is made in relation to it under section 15, until the period during which such an appeal may be made has expired; or

- (b) where such an appeal is made, pending determination of the appeal by the Appeal Board or, in case such appeal is withdrawn, before such withdrawal.
- (2) Where the Registrar cancels the registration of a registered course, in order to afford an opportunity to enable-
- (a) the requirement of or under this Ordinance or the condition imposed under this Ordinance which caused him to cancel the registration to be complied with or fulfilled in relation to the course; or
 - (b) the operator of the course to make necessary arrangement so that the course becomes an exempted course,
- he may defer the coming into effect of the cancellation and, if so, shall give a notice in writing of the deferment of the cancellation to the operator of the course.
- (3) The Registrar shall-
- (a) publish a notice of the coming into effect of a cancellation under section 14-
 - (i) in English in at least one newspaper in the English language circulating daily in Hong Kong; and
 - (ii) in Chinese in at least 2 newspapers in the Chinese language circulating daily in Hong Kong;
 - (b) (except where the registration is cancelled on the ground referred to in section 14(1)(g)) give a notice in writing of the coming into effect of the cancellation to-
 - (i) the designated person of the relevant course requiring him to cause a copy of the notice to be sent to each student of the course; and
 - (ii) the operator of that course.
- (4) Where the ground on which the registration is cancelled has ceased to exist at any time before the coming into effect of the cancellation, the Registrar shall by notice in writing to the operator of the relevant registered course withdraw the cancellation.
- (5) Where a cancellation under section 14 is withdrawn under subsection (4), the Registrar shall-
- (a) publish a notice of the withdrawal in all newspapers in which a notice was published under section 14(2)(b) or (c) in respect of the cancellation of the registration of the course; and
 - (b) give a notice of the withdrawal in writing to the designated person of the relevant registered course requiring him to cause a copy of the notice to be sent to each student of the course.

(Enacted 1996)

Section:	17	Designated person to send notice as required	30/06/1997
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(1) A designated person of a registered course who fails to comply with a requirement under section 13(2)(a), 14(2)(a) or 16(3)(b) commits an offence and is liable on conviction to a fine at level 3.

(2) It shall be a defence for a designated person charged with an offence under this section to prove that he took all reasonable steps and exercised all due diligence to prevent the commission of the offence.

(Enacted 1996)

Part:	V	OPERATION OF REGISTERED COURSES	30/06/1997
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(Enacted 1996)

Section:	18	Periodic fee	30/06/1997
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(1) The operator of a registered course shall pay to the Registrar in respect of the course a prescribed fee which is a periodic fee as may be appropriate in respect of-

- (a) each period of 12 months during which the course continues to be a registered course and beginning on the first or any subsequent anniversary of the date of the certificate of registration issued in respect of the course under section 10(9); and
- (b) part of such a period.

(2) A prescribed fee payable under subsection (1) shall be paid to the Registrar not later than 1 month after the first day of the period in respect of which it is payable.

(3) Where a prescribed fee payable under subsection (1) is not paid in accordance with subsection (2), there shall be chargeable upon the unpaid fee a surcharge up to 100% of the amount of such unpaid fee-

- (a) the actual amount of which shall be determined by the Registrar; and
- (b) which shall be paid together with such unpaid fee to the Registrar not later than 2 months after the first

day of the period in respect of which the unpaid fee is payable.

(Enacted 1996)

Section:	19	Certain matters to be notified	30/06/1997
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(1) The operator or designated person of a registered course shall notify the Registrar of any change of his name or address which was previously supplied to the Registrar within 1 month of such change.

(2) Where-

- (a) a registered course ceases to be operated;
- (b) the operator of a registered course is changed;
- (c) the content of a registered course is changed;
- (d) the arrangement for payment and refund of the fee charged for a registered course is changed;
- (e) (in the case of a registered course leading to the award of a non-local higher academic qualification by a non-local institution)-
 - (i) the institution ceases to be a recognized non-local institution; or
 - (ii) the standard of the course ceases to be recognized in the manner described in section 10(3)(a)(ii);
- (f) (in the case of a registered course leading to the award of a non-local professional qualification by a non-local professional body) the course ceases to be recognized by that professional body for the purpose of awarding that qualification or of the claimed purpose referred to in section 2(2)(b)(ii); or
- (g) there is any change of the address at which a registered course is conducted,

a notice in writing of that fact shall be sent to the Registrar and each student of the course.

(3) A notice required to be sent under subsection (2) shall be given by both the designated person and the operator of the course within 1 month of the occurrence of the fact in respect of which the notice is given.

(4) Any person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(5) It shall be a defence for a designated person charged with an offence under this section to prove that he took all reasonable steps and exercised all due diligence to prevent the commission of the offence.

(Enacted 1996)

Section:	20	Annual return	30/06/1997
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(1) Within 6 months after the end of-

- (a) an academic year of a registered course;
- (b) (where there is no such academic year) a period of 12 months beginning on the date of the certificate of registration issued under section 10(9) in respect of the course or any anniversary of such date,

or such longer period as the Registrar may in his absolute discretion allow, the operator of the course shall send to the Registrar an annual return for that academic year or (where appropriate) period of 12 months in such form and containing such information as may be specified by the Registrar.

(2) The Registrar may send a copy of an annual return sent under subsection (1) to such persons as he thinks fit.

(3) A copy of an annual return sent under subsection (1) shall be made available at such place as the Registrar may determine for inspection by the general public during normal office hours free of charge.

(Enacted 1996)

Section:	21	Registrar may require information	30/06/1997
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(1) The Registrar may by notice in writing require the designated person or the operator of a registered course to give to the Registrar within such period as is specified in the notice (being a period not less than 1 month beginning on the date of the notice) any information or document which-

- (a) relates to the course; and
- (b) is in the possession of the designated person or (where appropriate) operator or under his control.

(2) The Registrar may in his absolute discretion extend the period specified in a notice under subsection (1).

(3) A designated person or an operator of a registered course shall comply with a requirement made of him under subsection (1).

(4) The Registrar may-

- (a) send a copy of any information or document received by him pursuant to subsection (1) to such

- persons as he thinks fit; and
- (b) make such information or document available for inspection by the general public at the office of the Registrar during normal office hours free of charge.

(Enacted 1996)

Section:	22	Registrar may obtain advice	30/06/1997
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(1) The Registrar may obtain, from the Accreditation Council or such other person or organization as he thinks fit, such advice as is reasonably required to enable him to verify-

- (a) the content of any annual return sent under section 20(1); or
 (b) any information or the content of any document received by him pursuant to section 21(1).

(2) Where the Registrar incurs any expenses in obtaining an advice under subsection (1) in respect of a course-

- (a) the operator of the course shall pay to the Registrar a sum of money equal to such expenses;
 (b) such sum, if unpaid under paragraph (a), shall be recoverable from the operator as a civil debt.

(Enacted 1996)

Section:	23	Appointment of inspection officer	30/06/1997
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The Registrar may by notice in the Gazette appoint any public officer to be an inspection officer.

(Enacted 1996)

Section:	24	Entry to premises, etc. and power to search, seize, etc.	30/06/1997
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(1) Where a warrant has been issued under subsection (2) in respect of any premises, or where subsection (3) applies in respect of any premises, a prescribed officer may-

- (a) at any time, using such force as may be necessary, enter and search such premises;
 (b) detain any person found in such premises, during such period as is reasonably required to permit any such search to be carried out, where that person might prejudice the purpose of such search if he were not so detained; and
 (c) inspect, seize and detain anything which is or appears to him to be or to contain, or to be likely to be or contain, evidence of the commission of an offence against this Ordinance or of a ground for the cancellation of registration under section 14.

(2) Where a magistrate is satisfied by information upon oath that there are reasonable grounds for believing that-

- (a) an offence against this Ordinance is being or has been committed in any premises; or
 (b) there is or may be in any premises anything which is or contains, or is likely to be or contain, evidence of the commission of an offence against this Ordinance or of a ground for the cancellation of registration under section 14,

he may issue a warrant authorizing any prescribed officer to enter such premises.

(3) A police officer may exercise any of the powers conferred under subsection (1) on a prescribed officer without a warrant issued under subsection (2)-

- (a) in respect of any premises not being premises used wholly or mainly for residential purposes and constituting a separate household unit; and
 (b) where-
- (i) he has reason to believe that-
- (A) an offence against this Ordinance is being or has been committed in those premises;
 (B) an act constituting a contravention of a condition imposed under section 12 is being or has been done in those premises; or
 (C) there is or may be in those premises anything which is or contains, or is likely to be or contain, evidence of the commission of an offence against this Ordinance or of a ground for the cancellation of registration under section 14;
- (ii) it is not reasonably practicable to obtain such a warrant in respect of those premises before exercising those powers.

(4) For the purposes of ascertaining whether the provisions of this Ordinance or a condition imposed under section 12 is being complied with, an inspection officer may-

- (a) at all reasonable times, enter any premises which appear to him to be used for the purposes of an exempted course or a registered course;
- (b) require any person found on such premises to produce-
 - (i) such books, records or other documents which are in his possession or under his control and kept in such premises; and
 - (ii) his identity card, for inspection by the inspection officer;
- (c) take notes, copies or extracts of or from any such books, records or other documents.

(5) This section shall be without prejudice to any powers of entry and search conferred on police officers under any other law.

(6) If an inspection officer or officer referred to in subsection (9)(a) is requested to produce proof of his authority, he shall not exercise any power conferred by subsection (1), (3) or (4) unless he has produced the proof of his authority as requested.

- (7) A prescribed officer may, in the exercise of the powers conferred by subsection (1)-
 - (a) break open any door of any premises which he is empowered to enter under that subsection;
 - (b) remove by force any person or article obstructing him in the exercise of such powers.

- (8) Any person who-
 - (a) fails to comply with a requirement made under subsection (4)(b); or
 - (b) obstructs a prescribed officer in the exercise of any power conferred by subsection (1), (3), (4) or (7),

commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

- (9) in this section, "prescribed officer" (訂明人員) means-
 - (a) any public officer authorized in writing for the purposes of this section by the Registrar either generally or in any particular case;
 - (b) any inspection officer;
 - (c) any police officer.

(Enacted 1996)

Part:	VI	APPEALS	L.N. 566 of 1997	01/12/1997
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(Enacted 1996)

Section:	25	Lodging of appeals	L.N. 566 of 1997	01/12/1997
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An appeal made under section 11, 12 or 15 shall be made in such form as the Registrar may specify.

(Enacted 1996)

Section:	26	Appeal Board	L.N. 566 of 1997	01/12/1997
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Remarks:

Adaptation amendments retroactively made - see 55 of 2000 s. 3

(1) Every appeal made under section 11, 12 or 15 shall be determined by the Appeal Board to be known as the Non-local Higher and Professional Education Appeal Board.

(2) The Chief Executive shall appoint a person to be the Chairman of the Appeal Board and such number of persons as he thinks fit to be the Deputy Chairmen of the Appeal Board. (Amended 55 of 2000 s. 3)

(3) Subject to subsection (7), the Chairman or any Deputy Chairman shall be appointed for a term of not more than 2 years but may be reappointed.

(4) A person appointed under subsection (2) shall be a solicitor or barrister within the meaning of the Legal Practitioners Ordinance (Cap 159).

(5) The Chief Executive shall appoint a panel of persons whom he considers suitable for appointment under section 27 as members of the Appeal Board. (Amended 55 of 2000 s. 3)

(6) An appointment under subsection (2) or (5) shall be notified in the Gazette.

(7) The Chairman and any Deputy Chairman or person appointed under subsection (5) may at any time resign by notice in writing to the Chief Executive. (Amended 55 of 2000 s. 3)

(8) No public officer shall be appointed to be the Chairman, Deputy Chairman or member of the panel under subsection (2) or (5).

(Enacted 1996)

Section:	27	Constitution and powers of Appeal Board	L.N. 566 of 1997	01/12/1997
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(1) The Appeal Board shall consist of the Chairman or a Deputy Chairman who shall preside at the hearing and such number of persons, not being fewer than 2, from the panel referred to in section 26(5) as the Chairman may appoint to be members of the Appeal Board to hear any appeal.

(2) In relation to the hearing of appeals every question before the Appeal Board shall be determined by the opinion of the majority of the members hearing the appeal except a question of law which shall be determined by the Chairman or (where appropriate) the Deputy Chairman; in the case of an equality of votes the Chairman or Deputy Chairman shall have a casting vote.

(3) In hearing an appeal the Appeal Board may-

- (a) receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in a court of law;
- (b) by notice in writing signed by the Chairman, summon any person-
 - (i) to produce to it any document or article that is relevant to the appeal and is in his custody or under his control; or
 - (ii) to appear before it and to give evidence relevant to the appeal;
- (c) administer oaths and affirmations;
- (d) require evidence to be given on oath or affirmation;
- (e) make an award of such sum, if any, in respect of the costs involved in the appeal as is just and equitable in all the circumstances of the case.

(4) After hearing an appeal made in respect of a registered course-

- (a) under section 11, the Appeal Board may determine the appeal by confirming the Registrar's decision or directing the Registrar to register the course;
- (b) under section 12, the Appeal Board may determine the appeal by confirming the Registrar's decision or directing the Registrar to withdraw the relevant condition or vary the condition in such manner as the Appeal Board decides;
- (c) under section 15, the Appeal Board may determine the appeal by confirming the Registrar's decision or directing the Registrar to restore the registration of the course.

(Enacted 1996)

Section:	28	Notification of certain decisions of Appeal Board	L.N. 566 of 1997	01/12/1997
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Where the Appeal Board determines an appeal by directing the Registrar to restore the registration of a course, the Registrar shall-

- (a) publish a notice containing the decision of the Appeal Board in all newspapers in which a notice was published under section 14 (2)(b) or (c) in respect of the cancellation of the registration of the course; and
- (b) give a notice in writing of the decision of the Appeal Board to the operator of the course.

(Enacted 1996)

Section:	29	Appeal Board's decision is final	L.N. 566 of 1997	01/12/1997
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Subject to section 31 the determination of an appeal by the Appeal Board or any order as to costs made by the Appeal Board shall be final.

(Enacted 1996)

Section:	30	Supplementary provisions relating to appeals	L.N. 566 of 1997	01/12/1997
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Remarks:

Adaptation amendments retroactively made - see 55 of 2000 s. 3

(1) The procedure and practice of the Appeal Board shall, subject to this Ordinance, be determined by the Chairman.

(2) If the Chairman is precluded by illness, absence from Hong Kong or any other cause from exercising his functions, the Chief Executive may appoint a Deputy Chairman to act as Chairman and as such to exercise all the functions of the Chairman during the period of his appointment. (Amended 55 of 2000 s. 3)

(3) If a person appointed by the Chairman under section 27(1) to hear an appeal is precluded by illness, absence from Hong Kong or any other cause from exercising his functions, the Chairman may appoint any other person from the panel referred to in section 26(5) to act in his place.

(4) In the hearing of an appeal, the appellant and the Registrar shall be entitled to be heard either in person or through a representative authorized by him.

(5) In relation to any appeal to the Appeal Board, the members of the Appeal Board, the appellant, the Registrar and any witness, representative or other person appearing before the Appeal Board shall have the same privileges and immunities as they would have if the proceedings were civil proceedings before a court.

(6) Any sum awarded to the Registrar under section 27(3)(e) shall be a debt due from the appellant to the Government and recoverable in the District Court and any sum payable by the Registrar to the appellant pursuant to an award under that section shall be charged on the general revenue.

(Enacted 1996)

Section:	31	Case may be stated for Court of Appeal	L.N. 566 of 1997	01/12/1997
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(1) The Appeal Board may refer any question of law arising in an appeal to the Court of Appeal for determination by way of case stated.

(2) On the hearing of the case, the Court of Appeal may amend the case or order it to be sent back to the Appeal Board for amendment.

(3) Where a case is stated under subsection (1), the Appeal Board shall not determine the relevant appeal before the Court of Appeal determines the relevant point of law.

(4) Where the Court of Appeal determines a case stated under subsection (1), the Appeal Board shall determine the relevant appeal having regard to the decision of the Court.

(Enacted 1996)

Section:	32	Offences relating to appeal	L.N. 566 of 1997	01/12/1997
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Any person who is summoned by a notice under section 27(3)(b) and who-

(a) without reasonable excuse refuses or fails-

(i) to attend and give evidence when required to do so by the Appeal Board;

(ii) being in attendance before the Appeal Board as a witness, to take an oath or make an affirmation required by the Appeal Board to be taken or made;

(iii) to answer truthfully and completely questions put to him by the Appeal Board; or

(iv) to produce any document or article which he is required by the Appeal Board to produce; or

(b) does any other thing which would, if the Appeal Board had been a court of law having power to commit for contempt, have been contempt of that court,

commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(Enacted 1996)

Part:	VII	MISCELLANEOUS		30/06/1997
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(Enacted 1996)

Section:	33	Offence		30/06/1997
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(1) Any person who in purported compliance with the provisions of this Ordinance or a requirement under this Ordinance makes any statement or representation of facts which is false in a material particular and which-

(a) he knows to be false in such particular; or

(b) he has no reasonable ground to believe to be true in such particular,

commits an offence.

(2) Any person who conceals, destroys, mutilates or falsifies any document or record affecting or relating to the affairs of any course with the intention of-

(a) concealing any offence against this Ordinance or contravention of any condition imposed under section 12; or

(b) obstructing any public officer in the performance of his functions under this Ordinance,

commits an offence.

(3) Any person who commits an offence under subsection (1) or (2) is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

(Enacted 1996)

Section:	34	Restriction on advertisement relating to regulated course, etc.	32 of 2000	09/06/2000
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(1) No person shall-

(a) publish, broadcast or otherwise disseminate; or

(b) cause to be published, broadcast or otherwise disseminated,

to the general public or a section of the general public any advertisement calculated to induce enrolment in any regulated course which is not an exempted course or a registered course.

(2) No person shall-

(a) publish, broadcast or otherwise disseminate; or

(b) cause to be published, broadcast or otherwise disseminated,

to the general public or a section of the general public any advertisement which falsely describes-

(i) any regulated course;

(ii) any course which, but for the operation of section 2(5) or (6), would have fallen within the definition of "regulated course" in section 2(1) by virtue of section 2(4),

or is likely to mislead as to the nature, purpose or quality of the course or the award to which the course is claimed to lead.

(3) Subsection (1) does not apply to a proposed course.

(4) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

(5) It shall be a defence for a person charged with an offence under this section to prove that he took all reasonable steps and exercised all due diligence to prevent the commission of the offence. (Amended 32 of 2000 s. 48)

(Enacted 1996)

Section:	35	Time limitation for instituting certain prosecutions		30/06/1997
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Proceedings for an offence under section 3(2), 33(1) or (2) or 34(1) or (2) shall be instituted within 2 years of the commission of the offence.

(Enacted 1996)

Section:	36	Replacement of designated person		30/06/1997
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(1) Where the Registrar has reason to believe that the designated person of a registered course-

(a) has died;

(b) is incapacitated;

(c) cannot be contacted; or

(d) refuses or neglects to act as such designated person,

he may, by notice in writing given to the operator of the course, require the replacement of the designated person within such period as is specified in the notice (being a period of not less than 1 month beginning on the date of the notice).

(2) Where the Registrar gives a notice under subsection (1) in respect of a registered course, the operator of the course shall within the period specified in the notice lodge with the Registrar a new undertaking described in section 10(1)(c)(iii).

(3) A person who has given an undertaking referred to in section 10(1)(c)(iii) may apply in writing to the Registrar for release from such undertaking.

(4) The Registrar may allow an application under subsection (3) if the application is accompanied by a new undertaking described in section 10(1)(c)(iii).

(5) Where the Registrar receives a new undertaking lodged under subsection (2) or allows an application under subsection (4), the person who gives the new undertaking referred to in subsection (2) or (4) in respect of a registered course shall thenceforth become the designated person of the course.

(Enacted 1996)

Section:	37	Registrar may require English or Chinese version of certain documents		30/06/1997
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(1) Where a document given to the Registrar in purported compliance with a requirement of or under this Ordinance is not written in either the English or Chinese language, the Registrar may by notice in writing require the person of whom the requirement was made to send to him within such period as is specified in the notice (being a period of not less than 1 month beginning on the date of the notice) an English or Chinese version of the document as the person may elect.

(2) Any person who fails to comply with a requirement under subsection (1) commits an offence and is liable on conviction to a fine at level 3. (Enacted 1996)

Section:	38	Notices	L.N. 163 of 2013	03/03/2014
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- (1) A notice required to be given under this Ordinance to a person shall be properly given if-
- (a) in case such person is an individual, it is delivered to him or sent by post to him at the address at which he ordinarily resides or carries on business or, if such an address is unknown, at his last known address;
 - (b) in case such person is a company, it is sent by post to the company's registered office in Hong Kong;
 - (c) in case such person is a non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap 622), it is sent by post to the principal place of business of the company in Hong Kong; (Amended 30 of 2004 s. 3)
 - (d) in case such person is a body corporate other than a company (whether incorporated or otherwise established in Hong Kong or elsewhere), or an unincorporated body of persons, it is sent by post to any address at which the body transacts business.

(2) For the purposes of subsection (1), every body corporate other than a company and every unincorporated body of persons not being a partnership shall be deemed to transact business at its principal office or place of business.

(3) In subsections (1)(b) and (d) and (2), "company" (公司) means a company within the meaning of the Companies Ordinance (Cap 622).

(Amended 28 of 2012 ss. 912 & 920)
(Enacted 1996)

Section:	39	Liability of directors, etc.		30/06/1997
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(1) Where an offence under this Ordinance is committed by a corporation and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the corporation (and whether so called or not), or any person who was purporting to act in any such capacity, he as well as the corporation, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where an offence under this Ordinance committed by a partner of a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any other partner of that partnership, that other partner shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(Enacted 1996)

Section:	40	Rules	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

- (1) The Secretary for Education may make rules- (Amended L.N. 130 of 2007)
 - (a) providing for regulation of advertisement relating to regulated courses and courses which, but for the operation of section 2(5) or (6), would have fallen within the definition of "regulated course" in section 2(1) by virtue of section 2(4);
 - (b) providing generally for application under section 10 and operation of registered courses;
 - (c) providing for collection of fees charged for exempted courses or registered courses and refund of such fees in prescribed circumstances;
 - (d) providing for premises used for the purposes of exempted or registered courses;
 - (e) prescribing fees for the purposes of this Ordinance;
 - (f) providing for appeals under Part VI;
 - (g) generally for the better carrying out of the provisions and objects of this Ordinance.
- (2) Rules made under subsection (1) may make different provisions as regards courses of different classes or descriptions.
- (3) Any rule made under subsection (1) may provide that contravention thereof shall be an offence and may provide penalties for such offence not exceeding a fine at level 4 and imprisonment for 6 months.
- (4) Any fees prescribed in rules made under this section-
 - (a) may be fixed at levels sufficient to effect the recovery of expenditure incurred or likely to be incurred by the Government in relation to the administration, regulation and control of the matters to which this Ordinance relates;
 - (b) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in the provision of any particular service, facility or matter.

(Enacted 1996)

Section:	41	Amendment of Schedules	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

The Secretary for Education may by notice published in the Gazette amend any Schedule.

(Amended L.N. 130 of 2007)

(Enacted 1996)

Section:	42	Transitional		30/06/1997
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During the period of 6 months after the day appointed under section 1(2), sections 3(1), 34(1), 43 and 44 shall not apply in relation to any regulated course which has commenced before such day.

(Enacted 1996)

Section:	43	(Omitted as spent—E.R. 2 of 2014)	E.R. 2 of 2014	10/04/2014
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Section:	44	(Omitted as spent—E.R. 2 of 2014)	E.R. 2 of 2014	10/04/2014
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Schedule:	1	LOCAL INSTITUTIONS OF HIGHER EDUCATION	6 of 2016	27/05/2016
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[sections 2(1) & 41]

Item	Institution	Executive head
1.	Hong Kong Shue Yan University registered under the Post Secondary Colleges Ordinance (Cap 320).	The President of Hong Kong Shue Yan University. (Amended L.N. 217 of 2007)
2.	Lingnan University established by the Lingnan University Ordinance (Cap 1165)	The President within the meaning of section 2 of the Lingnan University Ordinance (Cap 1165). (Replaced 54 of 1999 s. 34)
3.	The Education University of Hong Kong established by The Education University of Hong Kong Ordinance (Cap 444).	The President within the meaning of section 2 of The Education University of Hong Kong Ordinance (Cap 444). (Amended 23 of 2002 s. 84; 6 of 2016 s. 2)
4.	University of Hong Kong established by the University of Hong Kong Ordinance (Cap 1053).	The Vice-Chancellor of the University.
5.	The Hong Kong Polytechnic University established by the Hong Kong Polytechnic University Ordinance (Cap 1075).	The President of the University.
6.	The Chinese University of Hong Kong established by The Chinese University of Hong Kong Ordinance (Cap 1109).	The Vice-Chancellor of the University.
7.	Hong Kong Baptist University established by the Hong Kong Baptist University Ordinance (Cap 1126).	The President and Vice-Chancellor within the meaning of section 2 of the Hong Kong Baptist University Ordinance (Cap 1126).
8.	City University of Hong Kong established by the City University of Hong Kong Ordinance (Cap 1132).	The President within the meaning of section 2 of the City University of Hong Kong Ordinance (Cap 1132). (Amended 23 of 2002 s. 84)
9.	The Hong Kong Academy for Performing Arts established by The Hong Kong Academy for Performing Arts Ordinance (Cap 1135).	The Director within the meaning of section 2 of The Hong Kong Academy for Performing Arts Ordinance (Cap 1135).
10.	The Hong Kong University of Science and Technology established by The Hong Kong University of Science and Technology Ordinance (Cap 1141).	The President of the University.
11.	The Open University of Hong Kong established by The Open University of Hong Kong Ordinance (Cap 1145).	The President within the meaning of section 2 of The Open University of Hong Kong Ordinance (Cap 1145). (Replaced 50 of 1997 s. 29) (Enacted 1996)

Schedule:	2	SPECIFIED DISCIPLINES	30/06/1997
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[sections 2(1) & 41]

Accounting
Architecture
Arts
Banking
Building
Building Management
Business Management
Company Secretaryship
Computer Science
Dentistry
Education
Engineering
Environmental Study
Financial Services
Information Technology
Interpretation
Journalism
Law
Library Management
Mathematics
Medical Services
Medicine
Pharmacy
Psychology
Science
Social Work
Statistics
Surveying
Town Planning
Translation

(Enacted 1996)