An Roinn Dlí agus Cirt
Department of Justice

An Roinn Breisoideachais agus Ardoideachais, Taighde, Nuálaíochta agus Eolaíochta
Department of Further and Higher Education, Research, Innovation and Science

DEPARTMENT OF JUSTICE AND EQUALITY
Now DEPARTMENT OF JUSTICE
IRISH NATURALISATION AND IMMIGRATION SERVICE (INIS)
Now IMMIGRATION SERVICE DELIVERY (ISD)

Interim List of Eligible Programmes for Student Immigration Permission

ARRANGEMENTS APPLYING TO HIGHER EDUCATION AND PROFESSIONAL PROGRAMMES FROM
2 June 2015
(Updated 14 September 2018)*

***Document reviewed in October 2021 to address name changes and to update weblinks/references only**
Department of Justice and Equality has been amended to Department of Justice
Irish Naturalisation and Immigration Service (ISD) is now Immigration Service Delivery (ISD)
Department of Education and Skills has been amended to Department of Further and Higher Education, Research, Innovation and Science (DFHERIS)

Section 1 Introduction

In line with the Government decision of 20 May 2015, a series of reforms to the student immigration system for international education have been implemented. These are in response to concerning practices within certain parts of the sector and a number of college closures.

The reforms are designed to drive real and lasting change in the sector and address abuse of the immigration regime and labour market, improve the overall quality of educational offering to international students, and improve protection for learners, whilst safeguarding the strong international reputation of high-quality Irish education providers consistent with the goals of Ireland's International Education Strategy.

The regulations are set out in the Policy Statement "Reform of the International Education Sector and Student Immigration System".

The key reforms include the following:

- A new and more restrictive list of education programmes eligible for student immigration purposes. From 2 June 2015, further education and vocational education and training programmes are not featured on the Interim List. This change was first signalled in September 2014.
- In relation to higher education programmes, non-EEA students may only be recruited on to programmes which are accredited by recognised Irish awarding bodies.
- New information requirements, including a clear declaration of ownership, shadow directors, physical infrastructure and teaching capacity, which must be complied with by all providers.
- In relation to English language programmes, only those providers who demonstrate that they have reached an acceptable quality standard are included on the Interim List from 1 October 2015. Separate criteria and an application process are available for such programmes.
- The introduction of a number of measures designed to protect students, including compulsory learner protection arrangements and a separate account facility to safeguard student advance payments.

The Interim List available here and includes information on education and training programmes which meet specified criteria. It is a reference point primarily for Immigration Service Delivery (ISD) of the Department of Justice, in considering visa and residency applications from non-EEA applicants[1] wishing to study on a full-time basis in Ireland and to avail of a concession to take up casual employment in the State with certain restrictions. The Department of Further and Higher Education, Research, Innovation and Science has an advisory role in identifying appropriate criteria for the inclusion of programmes in the Interim List. The Interim List is administered by the Department of Justice. Where it is deemed appropriate, the Department of Justice, on behalf of the Minister, will seek advice from Quality and Qualifications Ireland (QQI) where education-related queries arise.

[1] The Members of the European Economic Area are, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. These arrangements/ regulations apply to programmes catering for students who are citizens from countries other than those listed above or Switzerland.

In addition to the requirements relating to programme eligibility, providers also have to comply with criteria relating to ownership, management and operation.
The criteria contained within this document are applied when determining if a programme is eligible for inclusion in the Interim List. The following is a summary of the key elements of the new criteria:

- Record of compliance and service delivery: ISD must be satisfied with the operation of all providers from an immigration perspective. All providers must comply with certain conditions relating to ownership, operation and quality assurance.
- Track record in education: New applicant private providers are required to demonstrate a track record in education. This will be through demonstrating that they have delivered quality assured programmes to Irish and EU students. In cases where an applicant provider has not previously traded, inclusion of programmes in the Interim List may be possible, if the senior academic manager(s), senior administrator(s), and academic staff, collectively have a satisfactory track record. *Please note:* this is a process whereby a provider is seeking to have programmes accepted as a valid basis for the granting of immigration permission to non-EEA students. It is not about the right to operate a business. This is a concession and therefore the immigration authorities must be fully satisfied in relation to the *bona fides* and capacity of the provider. The onus of proof rests on the provider in that regard.
- Programme accreditation: Programmes must lead to awards made by a recognised Irish higher education awarding body

All criteria are subject to ongoing review by the Department of Justice in consultation with the Department of Further and Higher Education, Research, Innovation and Science .

Further information for students on the immigration regime
Students should refer directly to the Irish immigration website with regard to registration requirements and the registration process.

A detailed set of questions and answers for students, providers and agents are available here.

Section 2 Interim List of Eligible Programmes for Student Immigration Permission (Interim List)

(NB these requirements are without prejudice to any additional requirements that may be imposed by the Immigration Authorities)

The document *Reform of the International Education Sector and Student Immigration System* (Government Policy Statement, May 2015)[2] outlines how a differentiated immigration regime will apply in respect of various categories of programmes. Programmes included in the *Interim List of Eligible Programmes for Student Immigration Permission* (Interim List) are divided into the following categories:

(a) Higher Education Programmes leading to Major Awards;
(b) Higher Education Programmes leading to Non-major Awards;
(c) Professional Awards;
(d) English language programmes; and
(e) Foundation programmes

Criteria for English language programmes are contained in the document *"New Arrangements Applying to English Language Programmes from 1 October 2015 (Updated 07 September 2018)".*

Criteria for higher education and professional programmes are set out below.

(a) Higher Education Programmes leading to Major Awards

Definition and interpretation

A *Higher Education Programme leading to a Major Award* is defined as a nationally awarded programme at National Framework of Qualifications[3] (NFQ) level 6 or above (see Appendix 1 for NFQ 'fan diagram'), which leads to one of the following major awards of at least 60 ECTS[4], made by a recognised national higher education awarding body:

- Higher Certificate
- Ordinary Bachelor Degree
- Honours Bachelor Degree
- Higher Diploma
- Postgraduate Diploma
- Masters Degree
- Doctoral degree

[2] This builds on a previous government decision announced by the Ministers for Education and Skills and Justice and Equality on 2nd September 2014: *Regulatory Reform of the International Education Sector*
[3] http://www.qqi.ie/Pages/National-Framework-of-Qualifications-%28NFQ%29.aspx
[4] ECTS: European Credit Transfer and Accumulation System

Subject to the criteria set out in Parts 3 and 4 of this document being met, a *Higher Education Programme leading to a Major Award*, as defined above, is eligible for inclusion in the *Interim List* if the programme leads to an award made by:

- one of the following Irish higher education awarding bodies:
    - QQI
    - an Institute of technology with delegated authority to make awards
    - a university or technological university in the State[5]
    - National University of Ireland
    - Royal College of Surgeons in Ireland
    - Other bodies that have been granted the statutory power to make awards under Irish law[6],

The entire Higher Education Programme leading to a Major Award must be awarded by the recognised Irish higher education awarding body and offered by the same provider in its entirety in order to be considered eligible for inclusion in the *Interim List*.

Duration, volume and attendance requirements for eligibility for inclusion in the *Interim List* under the 'Higher Education Programmes leading to Major Awards' category:

Any programme included in the *Interim List* as satisfying the *Higher Education Programmes leading to Major Awards* category must have an associated workload of at least 60 ECTS (or equivalent) credits per academic year and be at least one full-time academic year in duration. Non-EEA students must attend the programme on a full-time, daytime basis, which is defined as students attending between the hours of 8am and 6pm on at least three days between Monday and Friday each week. Front loading of holidays is not permitted. Periods of holiday / tuition must be made clear to both the student and immigration officials (where relevant) at the point of registration.

(b) Higher Education Programmes leading to Non-major Awards

Definition and interpretation

A *Higher Education Programme leading to a Non-major Award* is defined as a programme at National Framework of Qualifications (NFQ) level 6 or above (see Appendix 1 for NFQ 'fan diagram'), which leads to a non-major award made by a recognised national higher education awarding body. Such programmes must be at least 60 ECTS and at least one full-time academic year in duration;

[5] DCU; NUI, Galway; Maynooth University; TCD; UCC; UCD; University of Limerick or a technological university established pursuant to the provisions of Part 2 of the Technological Universities Act 2018.

[6] For the purposes of inclusion in this Interim List, King's Inns is considered to be an awarding body.

Subject to the criteria set out in Parts 3 and 4 of this document being met, a *Higher Education Programme leading to a Non-Major Award*, as defined above, is eligible for inclusion in the *Interim List* if the programme leads to an award made by:

- one of the following Irish higher education awarding bodies:
    - QQI
    - an institute of technology with delegated authority to make awards
    - a university or technological university in the State[7]
    - National University of Ireland
    - Royal College of Surgeons in Ireland
    - Other bodies that have been granted the statutory power to make awards under Irish law[8]

The entire Higher Education Programme leading to a Non-major Award must be awarded by the recognised Irish higher education awarding body and offered by the same provider in its entirety in order to be considered eligible for inclusion in the *Interim List*

Duration, volume and attendance requirements for eligibility for inclusion in the *Interim List* under the 'Higher Education Programmes leading to Non-major Awards' category:

Any programme included in the *Interim List* as satisfying the *Higher Education Programmes leading to Non-major Awards* category must have a minimum associated workload of at least 60 ECTS (or equivalent) credits per academic year. Non-EEA students must be attending the programme on a full-time, daytime basis, which is defined as students attending between the hours of 8am and 6pm on at least three days between Monday and Friday each week.

Overseas accredited programmes

Two core values underpin Ireland's International Education Strategy, both the 2010 to 2015 strategy and the 2016 to 2020 Strategy. These values focus on a high quality educational experience and a uniquely Irish experience for the learner. It is not clear how any overseas accredited or validated programme could meaningfully deliver on such values.

Furthermore, in the context of past immigration abuse, as outlined by the Taskforce on Students Affected by Private Collage Closures, overseas accredited and validated programmes were frequently used as a means of bypassing Irish quality assurance and oversight. As such, we would emphasis again that overseas accredited programmes combine the highest level of immigration risk with the least strategic value for international education and should be viewed accordingly. In such circumstances it is clearly in the public interest that such programmes are not dealt with in the same way as Irish accredited or validated programmes.

A strong regulatory framework, both from an immigration and quality assurance perspective, is a critical priority of Ireland International Education Strategy. In this regard was the stated intention of the May 2015 Government Policy Statement that the International Education Mark

[7] DCU; NUI, Galway; Maynooth University; TCD; UCC; UCD; University of Limerick or a technological university established pursuant to the provisions of Part 2 of the Technological Universities Act 2018.

[8] For the purposes of inclusion in this Interim List, King's Inns is considered to be an awarding body.

(IEM) would be implemented during 2016. In that context the Interim List of Eligible Programmes ILEP was only ever intended as a temporary measure while the proper quality framework was put in place. In this regard it is important to emphasise that in the absence of the IEM the immigration authorities have no reliable way of distinguishing between the quality of programmes especially as regards overseas accredited programmes.

The implementation of the IEM has been significantly delayed while additional legislation is being formulated. As a consequence, certain changes to the ILEP process and eligibility criteria are necessary in response to this much longer than anticipated, lead in to the IEM.

One such change concerns overseas accredited and validated programmes. It is a clearly articulated aim of the May 2015 Government Policy Statement to phase out overseas accredited and validated programmes. As regards vocational and further educational education type programmes this process of phasing out has already been completed. The next phase of this process concerns higher education programmes and the closing off of the ILEP to new overseas accredited or validated programmes with immediate effect. Applications for such programmes will no longer be accepted by the Department of Justice in all future cycles of the ILEP.

The final stage of this process will be the implementation of the supplementary application process set out in the May 2015 Government Policy Statement. In this regard all overseas accredited or validated programmes which transitioned from the Internationalisation Register to the ILEP in June 2015 wishing to continue their listing on the ILEP will be required to submit an application in compliance with the conditions for such programmes set out in Part 5 of the Government Policy Statement.

Providers will please note that this new requirement is additional to all existing obligations and requirements on providers already set out in the Government Policy Statement and theses guidelines and does not in any way substitute these existing obligations and requirements

(c) Professional Awards

Definition and interpretation:

Providers who have been awarded ‘platinum status’ by the Association of Chartered Certified Accountants (ACCA) are eligible to apply for the inclusion of their ACCA examination preparatory programmes in the *Interim List.* This is in accordance with the *Reform of the International Education Sector and Student Immigration System* (Government Policy Statement, May 2015).

Other programmes leading to professional awards, and which have a demonstrated academic and immigration track record will be considered for inclusion on the Interim List on a case by case basis.

For any of the above categories of programmes, providers must ensure programmes are listed on the ILEP in advance of marketing to or recruiting international students.

Section 3 Eligibility Criteria for Providers Seeking to have English Language Programmes Included in the Interim List

Eligible Providers

A Higher Education or Professional Programme, as defined in Part 2, is eligible for inclusion in the Interim List when it satisfies the programme criteria set out in Part 2, and it is offered by one of the following Irish awarding bodies which meet the 'Other Conditions' as set out in Part 4 of this document:

- an institute of technology
- a university or technological university in the State[9]
- National University of Ireland
- Royal College of Surgeons in Ireland
- other bodies that have been granted the statutory power to make awards under Irish law[10]

or when the provider offering the programme meets the ownership, academic and immigration track record, and governance criteria, set out below, together with the 'Other Conditions' set out in Part 4 of this document:

Provider Ownership

A statement of ownership of the legal entity, signed on affidavit by an owner of the company/legal entity, must be submitted with the application form. This statement must:

i. list all persons who are owners[11], beneficial owners, directors, shareholders, and/or investors in the provider, or holding company of which the provider is a subsidiary, including shadow directors or persons otherwise having a beneficial ownership of the provider company/legal entity;

ii. confirm that all shares held by persons listed as a shareholder, or director of a provider are in the name of the persons listed and are entirely at their disposal. Where shares are held in trust this must be so stated, detailing for whom they are held in trust; and

[9] DCU; NUI, Galway; Maynooth University; TCD; UCC; UCD; University of Limerick or a technological university established pursuant to the provisions of Part 2 of the Technological Universities Act 2018For the purposes of inclusion in this Interim List, King's Inns is considered to be an awarding body.

[10] For the purpose of these criteria, owners are defined here as anyone who has a financial investment or interest in the legal entity. An owner may be active or not active in the business, sole, part or co-owner, beneficial owner, shareholder, any person for whom shares are held in trust by another person etc.

iii. declare all other shareholdings or interest(s) held by the listed shareholders and directors in other education and training providers in Ireland and in any other jurisdiction.

Failing to make a full and accurate disclosure, or making a false or misleading disclosure, will result in an application being rejected or programmes being removed from the Interim List. Providers who make false, misleading or incomplete declarations may be prohibited from having programmes included in the Interim List and /or its successor. Providers are also obliged to ensure that the information submitted to ISD remains up-to-date and are therefore required to communicate any changes of ownership to ISD within 5 working days of such changes taking place. Failure to do so may result in programmes being removed from the Interim List.

*For the purposes of this criterion a "beneficial owner" is an individual who benefits from at least 25 per cent of the business, (i.e. the provider), where this has been established, i.e.:

i. if the individuals who benefit from the business have been determined, any individual who benefits from at least 25 per cent of the business
ii. if the individuals who benefits from the business have yet to be determined, the class of such individuals in whose main interest the business is set up or operates, and
iii. any individual who exercises control of at least 25 per cent of the business.

NB: Any individual who is the beneficial owner of a body corporate that benefits from or exercises control over the business is taken to benefit from or exercise control over the business.

Section 4 Provider Track Record and Governance

A provider must[12]:

1. have owners, shareholders, directors and managers with a sound track record in educational provision and with immigration compliance both nationally and in another jurisdiction;
2. not have been involved in the last five years in the ownership of an education and training provider which closed leaving students out of fees or without an arrangement to complete their studies;
3. not have owners or majority shareholders acting as a recruitment agent. Information on individuals who hold an interest in a school and also act as a recruitment agent must be included in the *affidavit* submitted in support of the provider's application;
4. have never been convicted of a indictable offence in connection with a business or a company either in Ireland or in another jurisdiction;
5. have never been convicted of an offence involving fraud or dishonesty in Ireland or in another jurisdiction;

[11] These criteria apply to providers seeking to recruit non-EEA students and do not impact upon providers recruiting Irish and EEA students only.

6. have never been the subject of an order under Section 160 of the Companies Act 1990[13]
7. Where a provider is seeking inclusion on the Interim List for the first time, it must be able to demonstrate having brought a cohort of EEA students through to the point of successfully completing the programmes for which inclusion is sought and achieving the relevant certification.
8. have owners, shareholders, directors and managers that meet other national legal requirements, e.g. employment regulations. The owners, shareholders, directors and managers must also satisfy all immigration requirements;
9. be tax compliant and in good financial standing;[14]
10. have a current business plan which identifies:
    a. the staff-student ratio on programmes for which inclusion in the Interim List is sought;
    b. the maximum number of such programmes and maximum number of enrolled students the provider can accommodate on such programmes;
    c. how these programmes and students are and will be accommodated within the current premises and with the resources available;
    d. the number of classrooms available for the delivery of programmes for which inclusion in the Interim List; and
    e. projected recruitment of Irish, EEA and non-EEA students on such programmes for the next three years.
    f. Information on the duration of the current lease arrangements for the classrooms as set out above. Changes to leasing arrangements, or the location of the school must be communicated to ISD within 5 working days of such changes taking place. Failure to do so may result in programmes being removed from the Interim List

11. have appropriate administrative staffing arrangements. Administrative positions in any management role responsible for non-EEA required students, and/or staff responsible for attendance records and the attendance system must not be filled by a non-EEA student(s);
12. have public, documented policies, systems and procedures in place for the following, which will be considered in the context of an application for the inclusion of programmes in the *Interim List*:
    a. **refund of student fees and other payments in the case of refused visas:** The policies and procedures for such refunds must include provisions for refund arrangements for students who withdraw from a programme prior to commencement of the programme, shortly post commencement, or during the programme.[15] These provision must specify the maximum time from receipt of request for a refund to issue of a refund (this must not exceed three months); any administrative charges to be deducted from a refund, and the basis for any such deductions; the circumstances under which a student is not eligible for a refund, and the name and contact details of the person(s) responsible for operating the refunds system.

[12] Companies Act 1990: http://www.irishstatutebook.ie/eli/1990/act/33/enacted/en/html

[13] ISD reserves the right to request management accounts and, in certain circumstances, audited accounts from applicants. ISD will also liaise with the appropriate authorities in relation to a provider's broad requirements

[14] Please refer to Part 5, Student Services (5 and 6) in relation to student protection requirements.

b. **punctuality and attendance**, **including recording of attendance:** There must be an unambiguous system for the recording of attendance identifying the nominated responsible person(s) and the rules on punctuality and penalties for lateness. Such records should be available for inspection by / submission to ISD at any time.
c. **absenteeism and expulsion:** The policy and procedure must describe the steps which are taken and by whom in the case of an absent student. It must be clear at which point in this procedure that steps for expulsion of the student are activated and by whom; all standard correspondence as part of this process must be retained and be available on request to relevant internal personnel and external authorities. Absenteeism and expulsion procedures must be implemented in a timely manner, i.e. the disciplinary action must follow immediately after the absenteeism issue has been identified by management. It is not acceptable that non-EEA students are expelled towards the end of their programmes in relation to issues identified at an earlier point in the programme. The disciplinary system which may ultimately lead to expulsion must be clearly laid out in writing, including the issue of forfeiture of fees. It should be communicated to the student in a language that he or she can reasonably be expected to understand. Save in the case of most serious events, e.g. where the student has engaged in violent conduct against the staff or fellow students, it must be progressive with the student receiving a number of warnings before the expulsion step is taken. The student should have recourse to some form of appeal or review
d. **student sick leave:** The policy must include provision for an email or text to be sent to the responsible person in the provider on the first day of sickness and each day subsequently, together with the submission of a certificate from a doctor on the first day of return to the provider. The procedure regarding absenteeism and expulsion must be referenced in the requirements in relation to uncertified sick leave beyond the statutory entitlement.
e. **holidays and breaks:** No unscheduled breaks will be permissible except in documented cases of illness or close family bereavement. Circumstances where these requests may be considered must be listed and available to the student. The criteria for accepting or refusing a request must be documented and this must include the decision-making process. The name(s) of the responsible person(s) must be documented and publicly available. Student holidays and breaks must comply with the ISD requirements.
f. **end-of-course exam entry and recording of grades/scores received:** The following must be documented:
    i. the process of external authentication of exam results/grades achieved by students;
    ii. the obligations of the student to take the exam and the obligation of the provider to enter the student for the exam, i.e. the provider and student must sign an agreement at the beginning of the programme stating that the provider will enter the student for the end-of- programme exams and that the exams are mandatory. The student will sign the agreement stating that (s)he understands that the exam is mandatory and agrees that (s)he will sit the exam. This document must be available for inspection in respect of each student;
    iii. the procedure for entering students for the required exams; and

iv. the name and contact details of the person(s) responsible for the activities outlined under i - iii above.
v. The record of grades received must be available on request to students, ISD and relevant internal personnel. The relevant data protection permissions should be agreed with students accordingly.

g. **complaints and grievances:** The following must be documented:
i. unambiguous information describing what constitutes a complaint or grievance by a student;
ii. the procedure to be followed by the provider in the event of receipt of a complaint/grievance;
iii. the name and contact details of the person(s) responsible for managing this procedure; and
iv. the maximum duration from receipt of a complaint to resolution of the issue.

13. Not accept payment of fees by cash. Payment should be documented and a receipt provided to the student, whether the student is paying in advance of submitting a visa application or based in the State and renewing their student immigration permission.

*Providers must adhere to the policies they articulate in the documents submitted to ISD. Failure to demonstrate that policies are being implemented to the satisfaction of ISD may result in programmes being removed from the ILEP.

Section 5 Other Conditions for Providers Seeking to have Programmes Included in the Interim List

Section 5C Student Services

Providers offering higher education and professional programmes eligible for inclusion in the *Interim List* must:

1. provide assistance and support to students on immigration-related issues. An employee(s) who does not require immigration permission must be available to students in this regard. Administrative positions in any management role responsible for non-EEA required students, and / or staff responsible for attendance records and the attendance system must not be filled by non-EEA students;
2. be compliant with Section 67 of the Quality and Qualifications (Education and Training) Act, 2012. In so doing, providers must make information on relevant external accreditations and awarding bodies available to students. Where memberships of professional bodies are also listed in public materials the relationship of these to the programme(s) must be made clear;
3. make information on health insurance available to students. The cost and extent of the insurance must be clear. Where a student pays for health insurance through the provider, documented evidence of payment and cover must be supplied by the provider from the insurance company to the student;

4. Publish information on fees and all other ancillary charges associated with the delivery of each programme listed on the ILEP or for which inclusion is sought. This information must be published in a clear and transparent manner which can be verified by the immigration authorities and / or international students.
5. have arrangements in place for the protection of students in the event that a programme ceases prematurely, i.e., arrangements for a student to complete the programme with another provider(s), or to have their unspent fees and related costs reimbursed.[16] Academic bonding arrangements must not be made with providers with whom there is shared ownership or directorship. Insurance arrangements must be via a body which is regulated by the Central Bank of Ireland with the individual student being the policy holder. Student protection arrangements must cover the period from when a student enrols on a programme until the time the student has completed the programme and the end-of-programme exams. These arrangements must be made available to students prior to enrolment. Any learner protection arrangements presented to ISD in support of an application must be clear and transparent and should not conflict or overlap.
6. operate a separate client visa account with a financial body regulated by the Central Bank of Ireland for advance payments dependent on the visa process. Funds must remain in this account until the student's visa application is determined. If the visa application is refused, the funds, less any pre-indicated handling charge, must be returned to the student within 20 working days of the decision being received by the provider. Statements reconciliation reports in relation to this account must be forwarded to the internationaleducationproviders@justice.ie email address in the required format on request and must also be available at the time of inspection. Failure to do so and / or failure to comply with this criterion may result in a provider being removed from the Interim List.
7. provide students with pastoral care and advice and assistance, e.g. with finding accommodation; opening a bank account; gaining access to medical services, etc.; and
8. have emergency procedures in place, both during and outside of office hours, including emergency contact numbers, which are documented and publicly available.

Section 5D Premises and Related Resources

1. If premises are occupied under lease, providers must indicate the duration of the lease and must have evidence available (upon request) of the duration of the lease and the name of the property owner(s) with whom the lease is held in the business plan.[17] When a lease expires, ISD must be informed of the new lease arrangements in place. Where a provider operates from an additional centre, details must be supplied to ISD, including an updated Capacity Statement, evidence of relevant planning permission, fire safety certification and confirmation from the organisation providing learner protection that such arrangements extend to the additional centre.

[15] Part 5: Student Services, points 5 and 6 of these criteria do not apply to the designated awarding bodies, the institutes of technology and other bodies that have been granted the statutory power to make awards under Irish law.
[17] Part 5: Premises and Related Resources, Point 1 of these criteria do not apply to the designated awarding bodies, the institutes of technology and other bodies that have been granted the statutory power to make awards under Irish law.

2. Higher education and professional programmes eligible for inclusion in the Interim List must be offered in premises which:
    a) have adequate capacity to deliver the maximum number of programmes offered by the provider to the maximum number of enrolled students outlined in the provider's business plan [See Part 3 (9)];
    b) are fit-for-purpose and have a suitable means of heating capable of maintaining, when required, a room temperature of 18.5 C;
    c) have classrooms which have suitable fittings and equipment;
    d) have a room(s) exclusively available to academic staff adequate to staff numbers for the preparation of lessons etc.;
    e) have a student 'common room' and/or library facilities adequate for the maximum student numbers;
    f) have a student library / resource centre adequate for the maximum student and programme numbers;
    g) meet national legal requirements to operate as an educational premises, e.g. has relevant planning permission, complies with fire safety and health and safety regulations etc; and
    h) have appropriate furnishings and equipment adequate for all provision by the provider, based on a maximum number of enrolled students as set out in the provider's business plan.
3. Providers must accurately represent their facilities in all marketing and promotional materials. Misrepresentation of facilities may result in a provider being removed from the Interim List or refused a listing where a provider is applying for the first time.

Section 5E Student Profile and Track Record

Providers offering higher education and professional programmes eligible for inclusion in the Interim List must:

1. have clear, documented admissions criteria for programmes which enable a student to successfully engage with the programme, i.e. a placement test which is fit-for-purpose;
2. register students for the relevant end-of-programme exam(s) upon commencement of their studies and retain records of exam registration and, where possible, results, for a three year period. Evidence of registration of students must be supplied to ISD on request. Failure to do so may result in a provider being removed from the Interim List;
3. ensure non-EEA student progression across programmes, i.e. a non-EEA student may not be enrolled on a second consecutive programme at the same or lower NFQ level than the first programme on which they were enrolled as a visa-required student.

Track Record

Providers must be able to demonstrate capacity (e.g. resources, experience and appropriately qualified staff) for delivery of programmes for which inclusion in the Interim list is sought.

> **NB:** In order to have a new programme at levels 6 to 8 on the NFQ included in the Interim List, a provider must have a track record of delivering programmes at these NFQ levels to Irish and EEA students for a minimum of two years.
> In order to have a new programme at levels 9 and / or 10 on the NFQ included in the Interim List, a provider must have a track record of delivering programmes at these NFQ levels to Irish and EEA students for a minimum of two years.

NOTE:
Any other information required regarding the programme(s) submitted by the provider, the award(s) to which they lead, the awarding body, or the provider will be sought by the Department of Justice from the provider and / or the awarding body as appropriate. This information will inform the decision-making process regarding the inclusion of programmes in the Interim List.

Providers must immediately inform, and not later than 5 working days, the Department of Justice of any changes to ownership, shareholdings, directorships, or governance and / or of any changes to its status since its previous ILEP application; e.g. with regard to additional premises. Failure to do so, or the provision of false or misleading information, may result in the immediate removal of all programmes of the provider from the Interim List.

The Department of Justice and the Garda National Immigration Bureau, reserve the right to seek information, at any time, on programmes included in the Interim List, their provision and the awards to which they lead.

Provider inspection information requirements

The Department of Justice and the Garda National Immigration Bureau reserve the right to conduct inspections of applicant providers, and providers with programmes included in the Interim List, at any time. When conducting an inspection,[18] the following are (non-exhaustive) examples of the type of information that may be sought:

- Institution and ownership / management details including address and website; companies registration office number; revenue number; tax clearance certificate valid for 12 months from the date of issue; names of directors and principal; and connections with other institutions (including shared directorships).
- Institution capacity details including *inter alia*:
    - Number of students (Irish, EEA and non-EEA) in previous academic year or 12 month period and completion rates per programme / award;
    - Number of intended intakes and enrolment dates for next 12 month period for each programme the provider is seeking to include or has included in the Interim List;
    - Number of programmes and award type(s);

[18] In the case of inspections undertaken by the Department of Justice or the Garda National Immigration Bureau, immigration officers may request additional information directly from providers as they require it.

- Documentation pertaining to learner protection arrangements; and
- Documentation pertaining to the client visa account operated by the provider for the purpose of holding course fees.

Section 6 Operation of the Interim List

Application cycles

In line with the Government Policy Statement of 19 May 2015 a series of reforms to the student immigration system for international education were implemented, including introducing the Interim List of Eligible Programmes (ILEP). This interim measure was expected to be in place for a short period of time pending the introduction of the International Education Mark (IEM). However, as the IEM has not been introduced in 2016 as originally anticipated, the Departments of Justice and Further and Higher Education, Research, Innovation and Science have decided to extend the ILEP beyond the period it was originally intended for a period of at least an additional 24 months. There will be no more than 3 application cycles any single year. Interested parties are advised that details of each new application cycle will be announced in advance on the ISD website. Programmes cannot be added to the ILEP outside of the published application cycles. However, there is scope to remove programmes between cycles as detailed on pages 23-25 of this document or in circumstances where a provider notifies ISD that it is no longer offering programmes included in the list to non-EEA students. In all circumstances, programmes will be removed within 5 working days unless a successful appeal is lodged.

Application process

Application forms for inclusion of programmes in the Interim List are available here. Applications should be submitted in hard copy to the address included in the application form before the deadline. Information on the dates of Interim List application cycles are published on the ISD website. Only complete and accurate applications received on or before the deadline will be considered. Incomplete and / or inaccurate applications will be returned. An unannounced on-site inspection of providers may be conducted at any time to determine compliance with the criteria for inclusion on the Interim List. The Department of Justice will determine which programmes are included in the Interim List, and will be advised in its decisions by the Interim List Committee which comprises the Departments of Justice and Further and Higher Education, Research, Innovation and Science . The Interim List Committee will meet in advance of each Interim List update, although extraordinary meetings may also be held if required.

All applicant providers will receive an email confirming receipt of their application after the application submission window has closed. This is purely to confirm the application has been received as it will not have been reviewed at this stage. Applications will then be processed by the ISD administration staff responsible for the ILEP and their findings presented to the Interim List Committee, comprising of membership by the Departments of Justice and Further and Higher Education, Research, Innovation and Science , which meets before each ILEP update to decide the status of applications. Where an application has been approved in full, the provider will receive an email confirming this. However, they will also be advised that students may not be recruited to the programme(s) included therein until the ILEP update has taken place. Until such time as the programmes appear on the ILEP, visa / student immigration permission applications will be refused.

In the case of unsuccessful applications / applications where some of the programmes were refused, email correspondence will be issued and the applicant will be provided with an opportunity to appeal the decision of the Interim List Committee by lodging an appeal application within five working days of the decision being received. Applications may be refused or awarded provisional status[19] by the Interim List Committee and either status is eligible to be appealed. Any applications / additional documents or communication (e.g. emails) received after the five working day window for lodging such documents has passed cannot be considered but may be submitted as part of a new application in a subsequent Interim List application cycle. In requesting an appeal, the grounds for appeal should be set out, along with details of an action plan to remedy the grounds on which the application was refused by return email. Where one of the reasons for rejecting an application was the failure to provide certain requested information or documents, applicants may provide such information or documents as part of the appeal process. However, if the validity of these documents cannot be ascertained before the scheduled ILEP update, the application will remain refused and can be resubmitted in the subsequent ILEP application cycle. The appeal application will be examined by more senior officials of the two Departments who will review the initial findings of the Committee and any additional information / documentation provided. The Appeals Officer(s) may contact the applicant for additional clarification or information where necessary. The findings of the Appeals Committee will be communicated to the applicants in advance of the Interim List being updated.

As soon as the updated ILEP is published, the provider should check that the information contained in its listings are accurate. If any queries arise, they should be directed to ISD at the internationaleducationproviders@justice.ie email address.

Inspections

As set out above, an unannounced on-site inspection of providers may be conducted at any time to determine compliance with the criteria for inclusion on the Interim List. Additionally, ISD reserves the right to inspect providers with a listing on the Interim List at any time. Such inspections will also be unannounced and will form part of the ongoing monitoring activities of ISD to ensure compliance with immigration regulations. However, in certain circumstances, inspection may take place on foot of a complaint or other concerns regarding the operation of a provider.

An inspection report will be produced and provided to the Interim List Committee for consideration. The same process for applications as set out above applies to providers who are inspected, with an appeal mechanism available in the case where the Interim List Committee directs that programmes should be removed or granted provisional status on the basis of the inspection report.

[19] Provisional status means that programmes will be listed on the Interim List until the next update to the list. During this period, providers must demonstrate that significant improvements have been made to rectify the concerns of the Committee which led to the provisional status being assigned. Failure to do so may result in the provider being removed from the Interim List.

Removal of Programmes / Providers from the Interim List
As identified above, the inclusion of programmes in the Interim List enables providers to seek to recruit non-EEA students to study full-time in Ireland, and for successful students to reside in Ireland with an accompanying concession to take up casual employment in the State, in accordance with stipulated conditions for the duration of their studies. It is therefore important to articulate the circumstances under which certain programmes of a provider, or a provider and all of its programmes, can be removed from the Interim List.

The primary circumstances under which a provider and / or its programme(s) will be removed from the Interim List is when the provider or one or more of its programmes included in the Interim List no longer meets the criteria for inclusion. **In all cases, the onus is on the provider to inform the Department of Justice of any change to its status which impacts upon its ability to continue to meet the criteria for inclusion of programmes in the Interim List. Failure to inform the Department of Justice of any change in circumstances from its previous or original application may result in the removal of the provider and its programmes from the Interim List.**

The principal circumstances under which a provider and / or its programme(s) will be removed from the Interim List, and the process which will normally apply in these circumstances is set out below: [20]

<u>Basis and process for removal of Higher Education and Professional Programmes from the Interim List:</u>

- ***Provider has ceased trading:*** All details regarding a provider that has ceased trading will be taken off the Interim List within 5 working days.
- ***Provider is no longer offering a programme(s):*** If a provider has decided not to offer a given programme(s), it must inform the Department of Justice immediately, and no later than 5 working days. In addition, the provider will be required to provide information regarding the status of all international students associated with the relevant programme(s).
- ***Programme(s) offered by the provider no longer lead to an award of a recognised Irish higher education awarding body; no longer meet the higher education criteria; the provider no longer has ACCA platinum status:*** If any programme included in the Interim List no longer leads to an award of one of the awarding bodies set out in Part 2 of these criteria, or the provider no longer has ACCA platinum status, the provider must inform the Department of Justice immediately. The Department of Justice may seek written confirmation of the change of status of the programme(s) from the awarding body in question. The provider will also be removed if it has no other programmes / awards included in the Interim List within 5 working days unless a successful appeal is

20 Other circumstances may arise outside of those listed above which warrant the removal of a provider and / or its programmes from the Interim List

lodged. In addition, the provider will be required to provide information regarding the status of all international students associated with the relevant programme(s).

- ***Providers found to have made false, misleading or incomplete declarations in support of an application for inclusion of programmes may be prohibited from having programmes included in the Interim List:*** The provider and all of its programme(s), if already listed, will be removed from the Interim List within 5 working days unless a successful appeal is lodged.
- ***Providers found to have failed to notify ISD of changes since its previous application was submitted:*** Where such changes arise, the provider must inform the Department of Justice immediately, and no later than 5 working days. Failure to do so will result in removal from the Interim List within 5 working days unless a successful appeal is lodged.
- ***Provider is shown to have made false or misleading statements in its marketing, advertising or promotional material regarding its status / recognition or the status / recognition of its programmes with regard to the Interim List or the bodies that administer it:*** The provider and all of its programme(s) will be removed from the Interim List within 5 working days unless a successful appeal is lodged.
- ***Provider is no longer tax compliant:*** Where a provider cannot produce a current tax clearance certificate valid for a 12 month period on request, it will normally be deemed to no longer meet the criteria for continued inclusion in the Interim List and will be removed within 5 working days unless a successful appeal is lodged.
- ***Provider failed to demonstrate compliance with the ILEP criteria during the course of an inspection:*** If a provider fails to demonstrate compliance with any element of the ILEP criteria, e.g. attendance monitoring, the provider and all of its programme(s) will be removes from the Interim List within 5 working days unless a successful appeal application is lodged.
- ***Provider has failed to demonstrate eligibility to move from a provisional to full listing:*** If a provider fails to demonstrate that it has adequately addressed the issues leading to it being designated a provisional listing, the provider and all if its programme(s) will be removed from the Interim List within 5 working days unless a successful appeal is lodged.

Providers will be given 5 working days notification of the intention to remove a programme(s) from the Interim List. Providers may appeal the decision to remove within this 5 working day period by lodging an appeal application. The appeal application will then be examined by senior officials of the two Departments who will review the initial decision to remove the programmes and any additional information provided by the provider in its appeal application. Any applications / additional documents received after the five working day window for lodging such documents has passed cannot be considered and ISD will proceed with removal of programmes. However, such documents may be submitted as part of a new application in a subsequent Interim List application cycle if the provider wishes to have programmes reinstated on the Interim List.

Please note: The Department of Justice and the Garda National Immigration Bureau reserve the right to remove a provider and their programme(s) from the Interim List at any time on immigration grounds.

Please note: In addition to the above bases for removal of programme(s) from the Interim List, certain, or all, programmes of a provider may be subject to an immediate

temporary suspension of visa issuance / student immigration permission for non-EEA students pending the outcome of investigation by the Department of Justice or the Garda National Immigration Bureau. Such suspension may occur in the event of *inter alia*:

- allegations or concerns regarding serious breaches of immigration rules;
- where the stated policies of the provider are not being adhered to, e.g. in the case of absenteeism and expulsion;
- serious disruption to provision on which non-EEA students are enrolled, i.e. more than two consecutive days of classes not being provided. In such cases the provider must notify the Department of Justice and confirm plans for the resumption of classes. Such plans must also be communicated to enrolled students;
- serious concern regarding the ability of the provider to continue trading, e.g. non-payment of staff; non-provision of refunds to students within the specified timeframe;
- where accreditation by an awarding body has been suspended and / or where a provider is subject to sanctions by an awarding body and / or where the awarding body is subject to sanctions by the relevant external quality assurance body;
- where it becomes clear from examination data that students are being accepted on to programmes for which they are not academically prepared, or where they lack the language competency to complete their programme;
- where the provider fails to co-operate with immigration authorities, including refusing to co-operate with an unannounced inspection;
- failure to report in a timely manner incident(s) of student(s) failure to engage with programme(s), [i.e. sustained failure to complete course work, attend classes or sit exams]; and
- failure by the provider to comply with the terms of their agreement with the relevant awarding body(ies).

Note: ISD wishes to remind providers with programmes listed on the Interim List or applying to have new programmes listed that the information provided in the context of previous applications can be reviewed and verified by immigration authorities at any time. Providers may be requested to reconfirm information and provide additional documents / information in this regard.