



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  
IMMIGRATION SERVICE DELIVERY (ISD)**

**Interim List of Eligible Programmes for Student Immigration Permission**

**ARRANGEMENTS APPLYING TO FOUNDATION PROGRAMMES  
(updated 28 February 2024)**

## Section 1: Introduction

A series of reforms to the student immigration system for international education were implemented in 2015 in line with the policy statement [Reform of the International Education Sector and Student Immigration System](#).<sup>1</sup> The Interim List of Eligible Programmes (ILEP) was introduced as a more restrictive list of education programmes eligible for student immigration purposes, used as a reference point for Immigration Service Delivery (ISD) of the Department of Justice, in considering visa and residency applications from non-EEA applicants<sup>2</sup> wishing to study on a full-time basis in Ireland.

The ILEP is available [here](#) and includes details of programmes meeting specified criteria. The inclusion of programmes in the ILEP enables providers to recruit non-EEA students to study full-time in Ireland. The types of programmes eligible for inclusion are set out in Section 2. Since 2019, foundation programmes meeting specific criteria have been eligible for inclusion. New overseas accredited/validated programmes or further education or vocational education and training programmes are not included in the ILEP. Only those providers who can demonstrate that they have reached an acceptable standard, and demonstrate compliance with the criteria and requirements set out in this document, will be permitted to have foundation programmes included in the ILEP. To retain a programme listing, providers are required to remain in compliance with the ILEP criteria contained in this document and comply with all immigration requirements. The ILEP is administered by the Department of Justice. The Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) has an advisory role in identifying appropriate criteria for the inclusion of programmes in the ILEP.

The ILEP was developed as an interim measure, pending the introduction by Quality and Qualifications Ireland (QQI) of the International Education Mark (IEM)<sup>3</sup>. QQI will award the IEM to higher education and English language providers who demonstrate that they meet national standards to ensure a quality experience for international learners. When fully operational and following a transition period, the IEM will supersede the ILEP for student immigration purposes. Once the ILEP is discontinued, only education providers granted authorisation to use the IEM will be eligible to recruit students from outside the EEA to English language programmes, foundation programmes and higher education programmes leading to awards within the [National Framework of Qualifications](#). In anticipation of the introduction of the IEM, the ILEP will be closed to new applicant providers following the April 2024 application cycle. For a limited time, providers with programmes already listed on the ILEP may apply for the inclusion of additional programmes while engaging in the IEM application process. Information pertaining to dissolution of the ILEP and transitional arrangements will be communicated on the [Irish Immigration](#) website.

Study Visas and Stamp 2 immigration permissions will only be granted in respect of participation in a course listed in the ILEP or an eligible course offered by a provider with authorisation to use the IEM. Whether recruitment is on the basis of an ILEP programme listing or authorisation to use the IEM, all providers seeking to recruit students from non-EEA countries must cooperate with ISD in the Department of Justice and ensure compliance with immigration law. Providers must ensure all students, including prospective students, are aware of their immigration obligations.

Where a provider has programmes listed on the ILEP and remains in compliance with ILEP criteria, it may continue to recruit non-EEA nationals until the ILEP ceases operation. To remain eligible to recruit non-EEA nationals, providers must gain authorisation to use the IEM. Providers are advised to apply to QQI for authorisation to use the IEM as soon as it is available to continue to be eligible to offer programmes to non-

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<sup>1</sup> This built on a previous government decision announced by the Ministers for Education and Justice: [Regulatory Reform of the International Education Sector](#)

<sup>2</sup> The members of the European Economic Area: 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 for students who are citizens from countries other than those listed above or Switzerland.

<sup>3</sup> QQI has published information on [IEM requirements and the application process](#).

EEA nationals requiring immigration permission.

In light of the impending availability of the IEM, new applicant providers have a final opportunity to submit an application for inclusion of programmes in the ILEP. Details are set out on the [Irish Immigration](#) website. New applicant providers must also apply to QQI for authorisation to use the IEM, as soon as it is available.

### Information for students

A student will be eligible for a Stamp 2 immigration permission for up to 12 months when attending a foundation programme listed on the ILEP or a full-time foundation programme offered by a provider with authorisation to use the IEM. On completion of the foundation programme, the student must progress to the higher education programme for which they have a conditional offer. 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](#) is also available.

## Section 2: Programme Requirements

**Please note: these requirements are without prejudice to any additional requirements or measures that may be imposed by the immigration authorities or Irish Government Departments.**

Programmes included in the ILEP 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 categories (a), (b) and (c) and for (d) are published on the [ISD website](#). The criteria and requirements for foundation programmes are set out in this document.

### Definition and interpretation

A *foundation programme* is defined as a programme which provides “the formation necessary to enable an international student meet the minimum academic requirements (all other things being equal) for participation in a higher education programme in an Irish higher education institution and to cope with living and studying in Ireland”.<sup>4</sup>

For the purpose of inclusion in the ILEP, it must be one of the following foundation qualifications:

- a) QQI-validated Preparation for Undergraduate Programme, leading to [NFQ](#)<sup>5</sup> Level 5 Special Purpose Award
- b) QQI-validated Preparation for Postgraduate Programme, leading to [NFQ](#) Level 8 Special Purpose Award
- c) Equivalent awards that are included in the NFQ and validated by an Irish awarding body<sup>6</sup>

Programmes must be fully validated at the time of the ILEP application.

Subject to the criteria set out in Sections 2, 3, 4 and 5 of this document being met, a *foundation programme*, (as defined in a, b, or c above), is eligible for inclusion in the ILEP if the programme is accompanied by a conditional offer from an Irish higher education provider. The higher education provider must offer either undergraduate (NFQ Level 8) or postgraduate (NFQ Level 9 or 10) awards validated by one of the following Irish awarding bodies:

<sup>4</sup> [QQI Awards Standards for Pre-Higher Education Foundation Awards For International Students](#)

<sup>5</sup> [National Framework of Qualifications \(NFQ\)](#)

<sup>6</sup> Bodies that have been granted the statutory power to make awards under Irish law

- QQI
- an institute of technology with delegated authority to make awards
- a university<sup>7</sup> or technological university<sup>8</sup> in the State
- National University of Ireland
- Other bodies that have been granted the statutory power to make awards under Irish law<sup>9</sup>

Where a provider offers both foundation and higher education programmes, it must confirm that it retains the places on conditional offer until the student has completed their foundation programme. It must also specify the higher education programme associated with the conditional offer. In circumstances where a foundation programme provider does not offer higher education programmes, it must submit a Memorandum of Understanding (MoU) between it and the provider offering higher education programme(s) for which students are being prepared. The MoU must confirm that each student is provided with a conditional offer to a specified higher education programme.

### **Duration, volume and attendance requirements**

Any programme included in the ILEP as satisfying the *foundation programmes* category must have a duration of at least 25 weeks with at least 15 hours classroom tuition each week, excluding breaks. Non-EEA students must attend the programme on a full-time, daytime basis, which is defined as students attending between the hours of 9am and 5pm on at least four days between Monday and Friday each week. Programmes must be delivered fully through in-person classes to best meet the pedagogical needs of students and optimum student experience, except where a move to blended or wholly online delivery is in response to Government advice or public health restrictions. The programme must be structured and offered in a fashion which allows the student to progress to the higher education programme in advance of seeking renewal of their student immigration permission.

***Providers must ensure programmes are listed on the ILEP in advance of marketing to or recruiting non-EEA students.***

## **Section 3: Eligibility Criteria for Providers**

### **Eligible Providers**

A foundation programme, as defined in Section 2, is eligible for inclusion in the ILEP when it satisfies the programme criteria set out in Section 2, and the provider offering the programme meets all the programme, provider ownership, track record, governance criteria and **all conditions and requirements set out in Sections 2, 3, 4 and 5** of this document.

#### *Or alternatively*

A foundation programme, as defined in Section 2, is eligible for inclusion in the ILEP when it satisfies the programme criteria set out in Section 2, and it is offered by one of the following Irish awarding bodies which meet the 'Other Conditions' as set out in Section 5 of this document:

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

### **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:

<sup>7</sup> Dublin City University; University of Galway; Maynooth University; Trinity College Dublin; University College Cork; University College Dublin; University of Limerick and Royal College of Surgeons in Ireland (RCSI).

<sup>8</sup> These are established pursuant to the provisions of Part 2 of the Technological Universities Act 2018.

<sup>9</sup> For the purposes of inclusion in the ILEP, King's Inns is considered to be an awarding body.

- i. list all persons who are owners<sup>10</sup>, 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. set out shareholding arrangements and 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;
- iii. provide a declaration as to whether any individuals who hold an interest in the school also act as a recruitment agent, and
- iv. declare all other shareholdings, directorships or interest(s) held by the listed shareholders and directors in other education and training providers in Ireland and in any other jurisdiction.

*\*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.*

**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 ILEP. Providers who make false, misleading or incomplete declarations will be prohibited from having programmes included in the ILEP 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 will result in programmes being removed from the ILEP unless a successful appeal is lodged.**

## Section 4: Provider Track Record and Governance

Requirements of providers<sup>11</sup>:

1. All owners, shareholders, directors and managers of the provider must have a sound track record in educational provision and of immigration compliance both nationally and in any other jurisdiction.
2. Owners, shareholders, directors and/or managers must not have been involved in the last 5 years in the ownership of an education and training provider, in this or any other jurisdiction, which closed leaving students disadvantaged, i.e. out of fees or without an arrangement to complete their studies.
3. The provider must 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. Owners, shareholders, directors and/or managers cannot have been convicted of a indictable offence in connection with a business or a company either in Ireland or in any other jurisdiction;
5. Owners, shareholders, directors and/or managers must have never been convicted of an offence involving fraud or dishonesty in Ireland or in any other jurisdiction.
6. The provider must have never been the subject of an order under Section 160 of the Companies Act 1990, as amended<sup>12</sup>.

<sup>10</sup> 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.

<sup>11</sup> These criteria apply to providers seeking to recruit non-EEA students and do not impact providers recruiting EEA students only.

<sup>12</sup> Companies Act 1990 and amendments: <http://www.irishstatutebook.ie/eli/1990/act/33/enacted/en/html>

7. Providers must demonstrate the capacity (e.g. resources, facilities, experience and appropriately qualified staff) for delivery of programmes for which inclusion in the ILEP is sought. Where a provider is seeking inclusion on the ILEP for the first time, it must demonstrate having brought a cohort of students through to the point of successfully completing the programmes and achieving the relevant certification. Where a provider is relying upon its institutional capacity in respect of the delivery of other programmes when seeking to demonstrate a track record, it must demonstrate that the scope of provision bears relevance to the programmes for which it seeks inclusion in the ILEP.
8. The owners, shareholders, directors and managers must meet all other national legal requirements, e.g. employment regulations. The owners, shareholders, directors and managers must also satisfy all immigration requirements;
9. The provider must be tax compliant and in good financial standing;<sup>13</sup>
10. The provider must have a current business plan which identifies:
  - a. the staff-student ratio on programmes for which inclusion in the ILEP 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 these programmes;
  - e. projected recruitment of EEA and non-EEA students on such programmes for the next three years; and
  - f. the duration of the current lease arrangements for the classrooms as set out above. Changes to leasing arrangements, or the location of the school or provision must be communicated to ISD within 5 working days of such changes taking place. Failure to do so will result in programmes being removed from the ILEP, unless a successful appeal is lodged.
11. The provider must have appropriate administrative staffing arrangements. Administrative positions in any management role responsible for non-EEA students, and/or staff responsible for attendance records and the attendance system must not be filled by a non-EEA student(s). A non-EEA student enrolled in a programme of study should not have an employment role within the same provider in view of a potential conflict of interest.
12. The provider must have public, documented policies, systems and procedures in place utilising a plain English approach and clear language that students can reasonably be expected to understand. The following will be considered in the context of an application for the inclusion of programmes in the ILEP:
  - a. **refund of student fees and other payments:** The policies and procedures for 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. These provisions must specify the maximum time from receipt of request for a refund to issue of a refund (this must not exceed two months). In the case of a visa refusal, or refusal of entry into Ireland, the funds, less any pre-indicated handling charge, must be returned to the student within 20 working days of the decision being communicated to the provider. Any handling charges/fees to be retained by the provider must be advised to the student prior to purchase and must be fair and proportionate. The basis for any such deductions must be advised to the student prior to purchase. The policy must also set out any circumstances under which the student is not eligible for a refund and the name and contact details for the person(s) responsible for operating the refunds system.
  - b. **punctuality and attendance, including recording of attendance:** There must be a clear 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:** There must be a clear system in place for the recording of student absences, for which any procedures should describe the steps which are taken and by whom in

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<sup>13</sup> 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.

the case of an absent student. This system should identify the person(s) responsible for recording absences, their contact information, and any associated procedure as to how a student can have an absence recorded as a medical appointment or some other qualification of the circumstances pertaining to the absence, i.e. in the context of disciplinary action arising. It must be clear at which point in this procedure that steps for expulsion of the student are activated and by whom, with a clear description of the actions and requirements at each stage in the warning system. 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. The disciplinary process must be progressive with the student receiving at least two warnings, and provided with opportunities to respond at preceding stages before the step of expulsion. The only exception to this can be in the case of a serious incident, for example where the student has engaged in violent conduct against staff or students. The student should have recourse to some form of appeal or review and this process should be set out clearly and recorded.

- d. **student sick leave:** There must be a procedure for contacting the designated person(s) responsible in the provider on the first day of sickness and each day subsequently, along with instructions for the submission of doctor's certificate(s). The procedure regarding absenteeism and expulsion must be communicated to, and understood by, students including reference to 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 person(s) responsible must be documented and publicly available. Student holidays and breaks must comply with immigration requirements. Front loading of holidays is not permitted. Periods of holiday / tuition must be made clear to both the student and immigration officers (where relevant) at the point of registration.
- 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 exams 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 they understand that the exam is mandatory and agree to sit the exam.
  - 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.

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 and in line with GDPR requirements<sup>14</sup>.

- b. **complaints and grievances:** The following must be documented:
  - i. clear 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;
  - iv. the maximum duration from receipt of a complaint to resolution of the issue.
  - v. the means of appeal/ review where claims are not resolved to their satisfaction.

<sup>14</sup> Further information is available at [www.dataprotection.ie](http://www.dataprotection.ie)



13. The provider must 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 for a first programme or based in the State and renewing their student immigration permission.

**Please note:** 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

**Providers must also comply with any additional requirements imposed by the Immigration Authorities or Irish Government Departments.**

### Student Services

1. Providers must 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 students, and / or staff responsible for attendance records and the attendance system must not be filled by non-EEA students.
2. Providers must be compliant with Section 67 of the Qualifications and Quality Assurance (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. In respect of each programme listed on the ILEP, providers must publish information in a clear and transparent manner which can be verified by the immigration authorities and/or students. This must include:
  - a. details of all agents with which a recruitment arrangement has been agreed; and
  - b. information on fees and all other ancillary charges associated with the delivery of the programme to ensure prospective students are made aware of all costs associated with the programme prior to enrolment.
4. Providers must provide students with clear information on health insurance requirements. 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 from the insurance company must be supplied by the provider to the student.
5. Providers<sup>15</sup> must have arrangements in place for the protection of students in the event that a programme ceases prematurely i.e. financial bonding arrangements for a student to have their unspent fees and related costs reimbursed as part of an insurance policy, or academic bonding where the student completes the programme with another provider(s). Learner protection arrangements must cover the period from when a student enrolls on a programme and pays the relevant fees until the time the student has completed the programme and the end-of-programme exams. Details of the arrangements which will apply must be notified to students prior to enrolment /payment of fees and referenced on letter(s) provided to enrolled students.
  - a. *Insurance arrangements* must be via a body which is regulated by the Central Bank of Ireland with the individual student being the policy holder. The student must be covered from enrolment through to completion of the end-of-programme exams. Students' details must be communicated to the insurance provider once fees are paid. The name of the insurance provider must be set out on the enrolment letter and a copy of their policy documentation with clear details of the claims procedure must be provided to each student by the insurance provider.
  - b. *Academic bonding arrangements* must not be made with providers with whom there is shared ownership or directorship and must take into account the types and levels of programmes to be

<sup>15</sup> Point 5 does not apply to bodies that have been granted the statutory power to make awards under Irish law.



covered. The arrangement must reflect coverage of maximum student numbers by at least two other providers. The arrangements for cover must be set out, detailing the programmes covered by each provider and referencing possibilities of teaching out students in their current location. Where an alteration or suspension of an existing academic bonding arrangement will affect another provider(s), they must be notified in advance.

- c. Providers participating in the new statutory *Learner Protection Fund* (LPF) must supply evidence to demonstrate their compliance with QQI's arrangements for the protection of enrolled learners.<sup>16</sup>

Evidence of the learner protection arrangements in place must be submitted in respect of all programmes for which inclusion in the ILEP is sought. Such evidence must comprise statements from the relevant financial body(ies) in the case of financial bonding arrangements or letters of confirmation from awarding bodies and/or alternate providers in the context of academic bonding arrangements. All students must be protected, with no gap in cover. Any learner protection arrangements presented to ISD in support of an application must be clear and transparent. Details of proposed changes to learner protection arrangements must be submitted to ISD for approval. Failure to comply with this criterion will result in the provider being removed from the ILEP unless a successful appeal is lodged.

6. For handling of advance fee payments dependent on the visa application process, providers<sup>17</sup> must operate an escrow/delayed payment account with a payments institution authorised by a designated competent authority under Directive (EU) 2015/2366<sup>18</sup> or a separate client visa/escrow account with a financial body regulated by the Central Bank of Ireland. The operation of the account must be in accordance with the following key steps:
- students pay programme fees in advance of making a visa application;
  - Funds must remain in this account until the student's visa application is determined:
    - a. If the student confirms the successful visa application, the funds are released to the provider's current account; *or*
    - b. If the visa application is refused, the funds (less any pre-indicated handling charge) must be refunded within 20 working days of the decision being communicated to the provider.

Statements/reconciliation reports in relation to the account must be available for inspection and/or provided to ISD on request. Evidence of arrangements to satisfy this requirement must be submitted in respect of all programmes for which inclusion in the ILEP is sought. Such evidence must comprise statements from the relevant financial body(ies). Failure to comply with this criterion will result in the provider being removed from the ILEP unless a successful appeal is lodged.

7. Providers must provide students with pastoral care, advice and assistance, e.g. on immigration-related issues; with finding accommodation; opening a bank account; gaining access to medical services, etc.
8. Providers must have emergency procedures in place, both during and outside of office hours, including emergency contact numbers, which are documented and publicly available to students.

### **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.<sup>19</sup> When a lease expires, ISD must be informed of the new lease arrangements in place. Where a provider moves location or operates from an additional centre, ISD must be notified within 5 working days and updated details must be supplied. A Capacity Statement, evidence of relevant planning permission, fire safety certification and confirmation of the learner protection arrangements in place must be supplied in respect of all centres and locations of the provider.

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<sup>16</sup> Details of the statutory Protection of Enrolled Learners (PEL) scheme and the Learner Protection Fund (LPF) will be published by QQI.

<sup>17</sup> Point 6 does not apply to bodies that have been granted the statutory power to make awards under Irish law.

<sup>18</sup> [Directive \(EU\) 2015/2366 of the European Parliament and of the Council of 25 November 2015](#), articles 11(4) and 100 refer to competent authorities.

<sup>19</sup> Premises and Related Resources, point 1 does not apply to bodies that have been granted the statutory power to make awards under Irish law.

2. Foundation programmes eligible for inclusion in the ILEP 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 Section 4 (10)];
  - 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 ILEP or refused a listing where a provider is applying for the first time.

#### **Student Profile**

1. Providers must 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. Providers must 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 for exams must be supplied to ISD on request. Failure to do so may result in a provider being removed from the ILEP;
3. Providers must ensure non-EEA student progression across programmes, i.e. a non-EEA student can not be enrolled on a second consecutive programme at the same or lower level than the first programme on which they were enrolled. Upon successful completion of the foundation programme, the student must progress to the higher education programme for which they have a conditional offer.

#### **PLEASE 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 ILEP.

Providers must immediately inform, and not later than 5 working days, ISD in the Department of Justice of any changes since its previous ILEP application, including, *inter alia*, changes to ownership, shareholdings, directorships, governance, any changes to its status or operations, (including learner protection or client visa arrangements), staffing arrangements or location(s) of provision. Failure to do so, or the provision of false or misleading information, will result in the immediate removal of all programmes of the provider from the ILEP unless a successful appeal is lodged. Additional documentation must be supplied in respect of changes to records previously supplied and on the request of ISD.

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

## Section 6: Operation of the ILEP

### Application cycles

Details of each 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 (and providers) between cycles as detailed in these criteria or when a provider has gained authorisation to use the IEM.

### Application process

Once the IEM is available, the ILEP will be closed to new applicant providers. For a limited time<sup>20</sup>, providers with programmes already listed on the ILEP may apply for the inclusion of additional programmes while engaging in the IEM application process. Application forms for inclusion of programmes in the ILEP are available on the [ISD website](#). The dates of ILEP application cycles are published on the ISD website. Programmes must be fully validated at the time of the ILEP application. Only complete and accurate applications received during the application submission window will be considered. Incomplete and / or inaccurate applications will not be processed and applicants will be notified.

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. An unannounced on-site inspection of applicant providers may be conducted at any time to determine compliance with the criteria for inclusion on the ILEP. Applications are processed by the ISD staff responsible for the ILEP and their findings presented to the ILEP Committee, which meets before each ILEP update to decide the status of applications. The Department of Justice will determine which programmes are included in the ILEP, and will be advised in its decisions by the ILEP Committee comprising of membership of the Department of Justice and DFHERIS. Applications and information provided to the immigration authorities will be shared with members of the ILEP Committee. The ILEP Committee meet in advance of each ILEP update, although extraordinary meetings may also be held if required.

Where an application has been approved in full, the provider will receive an email confirming this. However, they will also be advised that students cannot be recruited to those programme(s) until the official ILEP update is published on the specified date. Until such time as the programmes appear on the ILEP, visa / student immigration permission applications will be refused. As soon as the updated ILEP is published, the provider should check that the information contained in its listings are accurate. A programme listing on the ILEP will only be valid until the date of cessation of the ILEP.

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 ILEP Committee by lodging an appeal application by email within five working days of the decision being communicated. Applications may be refused or awarded provisional status by the ILEP Committee and either status may be appealed. *[Provisional status means that programmes will be listed on the ILEP until the next ILEP update. During this period, a provider must demonstrate significant improvements to rectify the concerns of the Committee which led to the assignment of a provisional status listing. Failure to satisfy the Committee's concern(s) will result in the provider and/or programmes being removed from the ILEP, unless a successful appeal is lodged.]*

Any additional documents or communication (e.g. emails) received after the five day appeals window has passed cannot be considered. In requesting an appeal, the grounds for appeal should be set out in the email, along with details of an action plan to remedy the grounds on which the application was refused. The appeal application will be examined by senior officials of the two Departments who will review the initial findings of the ILEP Committee and any additional information / documentation provided. Applicants may be contacted for additional clarification or information where necessary. Where one of the reasons for rejecting an application was the failure to provide certain requested information or documents, applicants may provide

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<sup>20</sup> Details on dissolution of the ILEP will be communicated on the [Irish Immigration](#) website.

such information or documents as part of the appeal process. However, if the validity of such documents cannot be ascertained, or documents are not provided within the five-day appeals window, the application will remain refused.

The findings of the Appeals Committee will be communicated to applicants in advance of the ILEP being updated. New applicant providers whose ILEP application is refused and compliance with the criteria cannot be verified within the 5 day appeals window, must gain authorisation to use the IEM to be eligible to recruit non-EEA students.

### **Monitoring, Inspections and Investigations**

Monitoring activities are conducted to determine ongoing compliance with ILEP criteria and requirements. Monitoring activities can include routine or specific requests for records and information to determine compliance with ILEP requirements. The Department of Justice and the GNIB reserve the right to conduct unannounced inspections of applicant providers, and providers with programmes included in the ILEP, at any time. Such inspections will form part of ongoing monitoring activities to ensure compliance with immigration regulations. However, in certain circumstances, an inspection or investigation may take place on foot of a complaint, identification of possible non-compliance or other concerns regarding the operation of a provider. Information may be shared with DFHERIS and members of the ILEP and/or Appeals Committee.

When conducting an inspection the following are (non-exhaustive) examples of the type of information sought as part of monitoring activities and during on-site inspections:

- Provider and ownership / management details including [CRO](#) information; revenue number; tax clearance certificate; names of directors and principal; and connections with other providers(including shared directorships).
- Provider capacity details including *inter alia*:
  - Number of students (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 ILEP;
  - Number of programmes and award type(s);
- Lease details, evidence of relevant planning permission and fire safety certification;
- Samples of student enrolment letters and induction materials;
- Documentation pertaining to learner protection arrangements;
- Statements and reconciliation reports relating to the client visa account or international payments holding service operated by the provider for the purpose of holding course fees;
- Records of attendance monitoring and details of warnings and expulsions;
- Evidence of progression of students in line with conditional offers on completion of the foundation programme;
- Records of the handling of refund requests and complaints and grievances;
- Documented policies and procedures in place.

A report is produced following an inspection or when instances of non-compliance with ILEP criteria are identified. The report is presented to the ILEP Committee for consideration. The same process, as set out above for applications, applies to the consideration of the report by the Committee, with an appeal mechanism available in the case where the ILEP Committee directs that the provider's programmes should be removed or granted provisional status. In cases where instances of non-compliance with ILEP criteria are identified, providers are given notice of the ILEP Committee's decision to remove programmes from the ILEP. Providers may appeal the ILEP Committee decision, to remove programmes or grant provisional status, by submitting an appeal within 5 working days of the decision being communicated.

## **Removal of Programmes/Suspension of Issuance of Immigration Permissions**

As identified above, the inclusion of programmes in the ILEP enables providers to seek to recruit non-EEA students to study full-time in Ireland. Students enrolled on an ILEP programme may 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 ILEP.

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

The principal circumstances under which a provider and / or its programme(s) will be removed from the ILEP, and the process which will normally apply in these circumstances, are set out below: <sup>21</sup>

### **Basis and process for removal of programmes from the ILEP:**

- ***On cessation of the ILEP:*** All providers will cease to benefit from the rights incurred as a result of a programme listing on the ILEP. From that time, only providers with authorisation to use the IEM will be permitted to recruit non-EEA nationals to full-time programmes which meet immigration requirements.
- ***Significant failures identified by QQI:*** Where significant failings of relevance to ISD and ILEP are identified during a provider's engagement with QQI, including through an application for the IEM, this information will be shared with ISD, and the provider and all of its programme(s) will be removed from the ILEP after 5 working days unless a successful appeal is lodged.
- ***Where significant failings are identified which affect the ability of the provider to trade, deliver courses to students, comply with student protection requirements and/or meet academic standards,*** the provider and all of its programme(s) will be removed from the ILEP after 5 working days unless a successful appeal is lodged.
- ***Provider has ceased trading:*** All details regarding a provider that has ceased trading will be removed from the ILEP 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).
- ***Provider is no longer recruiting non-EEA students to any of its programmes:*** If a provider has ceased offering ILEP programmes to non-EEA students it must inform the Department of Justice. The provider will be required to provide information regarding the status of all international students associated with the relevant programme(s). Where a provider has never recruited students to programmes listed on the ILEP or has not recruited students for an extended period of time, all provider and programme details will be removed from the ILEP after 5 working days unless a successful appeal is lodged.
- ***Programme(s) offered by the provider no longer lead to an award of a recognised Irish higher education awarding body or no longer meet the foundation programme criteria:*** If any programme included in the ILEP no longer leads to an award of one of the awarding bodies set out in Section 2 of these criteria, 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

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<sup>21</sup> Other circumstances may arise outside of those listed above which warrant the removal of a provider and / or its programmes from the ILEP.



body in question. The provider will also be removed after 5 working days if it has no other programmes / awards included in the ILEP unless a successful appeal is lodged. In addition, the provider will be required to provide information regarding the status of all international students associated with the relevant programme(s).

- **Completion by a student of the foundation programme(s) offered by the provider can no longer be linked to a conditional offer of an undergraduate (NFQ Level 8) or postgraduate (NFQ Level 9 or 10) award of a recognised Irish higher education awarding body:** If the foundation programme provider can no longer demonstrate a link with Irish higher education provider(s) providing conditional offers to students, the programme(s) will be removed from the ILEP after 5 working days unless a successful appeal is lodged.
- **Providers found to have made false, misleading or incomplete declarations in support of an application for inclusion of programmes will be prohibited from having programmes included in the ILEP:** The provider and all of its programme(s), if already listed, will be removed from the ILEP after 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 ILEP after 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 ILEP or the bodies that administer it:** The provider and all of its programme(s) will be removed from the ILEP after 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:** The provider and all of its programme(s) will be removed from the ILEP after 5 working days unless a successful appeal is lodged.
- **Provider allows the use of false information or misrepresentation of facilities, immigration requirements, costs and accommodation in marketing, advertising or promoting courses to students, either in published materials or by agents:** The provider and all of its programme(s) will be removed from the ILEP after 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-period on request, it will normally be deemed to no longer meet the criteria for continued inclusion in the ILEP and will be removed after 5 working days unless a successful appeal is lodged.
- **Provider failed to demonstrate compliance with the ILEP criteria during the course of an inspection investigation or monitoring activity:** If a provider fails to demonstrate compliance with any element of the ILEP criteria, the provider and all of its programme(s) will be removed from the ILEP after 5 working days unless a successful appeal 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 of its programme(s) will be removed from the ILEP after 5 working days unless a successful appeal is lodged.

Where a breach of the criteria and requirements has been identified, information will be shared with DFHERIS and members of the ILEP and/or Appeals Committee. Providers will be given 5 working days notification of the intention to remove a programme(s) from the ILEP. Providers may appeal the decision to remove within this 5 working day period by lodging an appeal application. The appeal application will be examined by senior officials of the two Departments who will review the initial decision to remove the programmes and consider any additional information provided in the appeal application. Any applications / additional documents received after the 5 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 ILEP application cycle if the provider is eligible to apply to have programmes reinstated on the ILEP.

The Department of Justice and the GNIB reserve the right to remove a provider and its programme(s) from the ILEP at any time on immigration grounds, once 5 working days' notice has been served and in circumstances where an appeal is lodged, the Appeal Committee upholds the original decision.

**In addition to the above bases for removal of programme(s) from the ILEP, certain, or all, programmes of a provider may be subject to an immediate temporary suspension of visa / student immigration permission issuance for non-EEA students pending the outcome of investigation by the Department of Justice or the GNIB. Such suspension may occur in the event of *inter alia*:**

- notification from QQI of significant and serious failings of the provider;
- 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 attendance monitoring 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:** The Department of Justice wishes to remind providers with programmes listed on the ILEP 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.