

## DEPARTMENT OF JUSTICE AND EQUALITY IRISH NATURALISATION AND IMMIGRATION SERVICE (INIS)

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

## ARRANGEMENTS APPLYING TO ENGLISH LANGUAGE PROGRAMMES FROM 1 October 2015 (Updated 09 December 2016)

### Part 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 have been implemented.

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:

- All institutions have to comply with new requirements including a clear declaration of ownership, shadow directors, physical infrastructure and teaching capacity.
- With regard to English language programmes, only those providers who can demonstrate that they have reached an acceptable standard will be permitted to appear on the Interim List from 1st October 2015.
- A number of measures designed to protect students have been introduced including compulsory learner protection arrangements and a separate account facility to safeguard student advance payments.

The Interim List is available [here](#) and includes information on education and training programmes which meet specified criteria. It is a reference point primarily for the Irish Naturalisation and Immigration Service (INIS) of the Department of Justice and Equality, in considering visa and residency applications from non-EEA applicants<sup>1</sup> wishing to study on a full-time basis in Ireland and to avail of a concession to take up casual employment in the

<sup>1</sup> 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, Sweden and United Kingdom. These arrangements/ regulations apply to programmes catering for students who are citizens from countries other than those listed above or Switzerland.

State with certain restrictions. The Department of Education and Skills 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 and Equality. Where it is deemed appropriate, the Department of Justice and Equality, on behalf of the Minister, will seek advice from Quality and Qualifications Ireland (QQI) where education-related queries arise.

### **Summary of Impact of Reforms for English Language Programmes**

From 1<sup>st</sup> October 2015, recruitment of international students to English language programmes is based on a new list of appropriate programmes as per the criteria contained in this document, including, *inter alia*, the following:

- Record of compliance and service delivery: INIS must be satisfied with the operation of all providers from an immigration perspective. All private providers must comply with certain conditions relating to ownership, operation and quality assurance.
- Track record in education: Applicant private providers are required to demonstrate a track record in English language education. 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 have collectively acquired 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 characteristics: Programmes must meet minimum duration and delivery criteria as specified in Section 2 of these criteria; have a defined learning pathway (i.e. a course programme), with specified learning outcomes with an assessment framework aligned to the programme and its learning outcomes; and conclude in one of the English language proficiency exams identified in Section 2 of these criteria:
- International Education Mark: Once fully implemented, institutions must gain authorisation to use the IEM in order to be eligible to recruit international students.

All criteria are subject to ongoing review by the Department of Justice and Equality in consultation with the Department of Education and Skills.

### **Further information for students on the immigration regime**

Students should refer directly to the Irish Naturalisation and Immigration Service (INIS) with regard to registration requirements and the registration process. Details may be found at [www.inis.gov.ie](http://www.inis.gov.ie).

A detailed set of questions and answers for students, providers and agents are available [here](#).

## **Part 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)<sup>2</sup> 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* are divided into four categories:

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

Criteria governing the inclusion of higher education and professional programmes in the Interim List are available in the document “*Arrangements Applying to Higher Education and Professional Programmes from 2 June 2015 (Updated 09 November 2016)*”. Criteria for English language programmes are set out below.

### **Definition and Interpretation**

*English language programmes* which are eligible for inclusion on *the Interim List* must have the following characteristics:

- a) Be a minimum of 25 weeks in duration and offered within an eight month period with a minimum of 15 classroom tuition hours per week, excluding breaks, offered Monday to Friday between the hours of 9am to 5pm;
- b) Have a defined learning pathway (i.e. a course programme), with specified learning outcomes stating the learning to be achieved at the end of the programme;
- c) Have an assessment framework aligned to the programme and its learning outcomes;
- d) Be offered exclusively to students who are not first language English users;
- e) Be subject to internal quality assurance;
- f) Conclude in one of the following English language proficiency exams (with a specified score / grade where the exam is a system) ; *or*
- g) Lead to a recognised English Language Teaching (ELT) award made by a recognised awarding body in Ireland or in the EU. The award must be formally calibrated with the CEFRL<sup>3</sup>.

Each programme is considered on its own merits. The Department of Justice and Equality may liaise with regulatory authorities, awarding bodies and external quality assurance

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<sup>2</sup> This builds on a previous government decision announced by the Ministers for Education and Skills and Justice and Equality on 2<sup>nd</sup> September: [Regulatory Reform of the International Education Sector](#)

<sup>3</sup> For further information on the Common European Framework of Reference for Languages (CEFRL), please see here: [http://www.coe.int/t/dg4/linguistic/source/framework\\_en.pdf](http://www.coe.int/t/dg4/linguistic/source/framework_en.pdf)

agencies as appropriate to confirm that individual programmes meet the specified programme criteria.

**Please note** that English language programmes with a specific professional or occupational domain focus, e.g. IT or tourism will typically contain a module or strand of the overall English programme focusing on a specific lexis or subject-area. Such programmes must culminate in a minimum B1 or equivalent grade, as formally calibrated by the exam provider should the programme not culminate in an award.

English for Business programmes will have learning outcomes within the relevant language systems and language skills descriptions. Programmes will culminate in a relevant exam identified as assessing English for business purposes. Such programmes must culminate in a minimum B1 or equivalent grade, as formally calibrated by the exam provider should the programme not culminate in an award.

**EL Proficiency exams: end of course exams with minimum scores/ grades for ILEP ELT programmes:<sup>4</sup>**

Exam Title	Examining Body	Minimum Exit Score for a Programme <sup>5</sup>
Test of Interactive English (TIE)	ACELS	A2
English Test for Academic and Professional Purposes (ETAPP)	ACELS	B1
IELTS (Academic)	British Council/ CELA/ IDP Australia	4.0/ B1
IELTS (General)	British Council/ CELA/ IDP Australia	4.0/ B1
Cambridge English Preliminary (also known as Preliminary English Test – PET)	Cambridge English Language Assessment (CELA) <sup>6</sup>	Pass/B1
Cambridge English First (also known as First	Cambridge English Language Assessment	

<sup>4</sup> Please see ACELS [www.acels.ie](http://www.acels.ie); CELA: [www.cambridgeenglish.org](http://www.cambridgeenglish.org); IELTS: [www.ielts.org](http://www.ielts.org); Pearson: [www.pearsonpte.com](http://www.pearsonpte.com); TIE: [www.tie.ie](http://www.tie.ie) ; [www.tieexams.gr](http://www.tieexams.gr) ; Trinity College London: [www.trinitycollege.co.uk](http://www.trinitycollege.co.uk) for further information

<sup>5</sup> i.e. a programme must prepare a student to exit with language competence of at least the minimum exit score or above

<sup>6</sup> Please note that for any CELA test taken on or post April 6<sup>th</sup>, 2013, candidate scores can be verified using the Cambridge Online system using name, date of birth and passport number.

Certificate in English – FCE)	(CELA)	Pass at Grade C/B2
Cambridge English Advanced (also known as Certificate in Advanced English – CAE)	Cambridge English Language Assessment (CELA)	Pass at Grade C/C1
Cambridge English Proficiency (also known as Certificate in Proficiency of English – CPE)	Cambridge English Language Assessment (CELA)	Pass at Grade C/C1+ -C2
Cambridge English Business Preliminary (also known as Business English Certificate Preliminary – BEC 1)	Cambridge English Language Assessment (CELA)	Pass/B1
Cambridge English Business Vantage (also known as Business English Certificate Vantage – BEC 2)	Cambridge English Language Assessment (CELA)	Pass at Grade C/B2
Cambridge English Business Higher (also known as Business English Certificate Higher – BEC 3)	Cambridge English Language Assessment (CELA)	Pass at Grade C/C1
Pearson Test of English Academic (PTE Academic)	Pearson	43/ B1
Integrated Skills in English (ISE) Foundation (F)	Trinity College London	ISE F Pass /A2
Integrated Skills Exam (ISE) I	Trinity College London	ISE I Pass /B1
Integrated Skills Exam (ISE) II	Trinity College London	ISE II Pass /B2
Integrated Skills Exam (ISE) III	Trinity College London	ISE III Pass /C1
TOEFL iBT	ETS	42 / B1 72/ B2 95/ C1

## English Language Programmes Leading to Awards of Recognised EU Awarding Bodies

In the case of English language programmes leading to awards of recognised awarding bodies from within the EU, which are operating in Ireland, the following criteria apply:

- the awarding body must be authorised by its home jurisdiction to make the award in Ireland either directly, or when the programme leading to the award is offered through a third party provider in Ireland, should that be the case.
- the awarding body must be subject to external quality assurance by a recognised quality assurance agency which has been found to be substantially compliant with the [European Standards and Guidelines for Quality Assurance in the European Higher Education Area](#).
- the award must be subject to appropriate internal and external quality assurance arrangements, and such quality assurance arrangements must extend to provision in Ireland, including provision offered by third party providers based in Ireland, where relevant. The Department of Justice retains the right to inspect quality assurance documentation relating to the programme from time to time or during inspection.
- there must be an agreement between the provider and the awarding body and between the provider and the student confirming that:
  - a) all enrolled students must be registered with the awarding body before or upon commencing the programme
  - b) all enrolled students must undertake the end of programme exam(s). Failure to do so will have negative consequences for an individual student's future immigration status and potentially for the provider.

Copies of such agreements must be available on request.

- the provider must include:
  - a letter of accreditation from the EU awarding body (i.e. a letter which lists the programmes for which inclusion in the Interim List is sought and confirms the provider is accredited to offer such programmes by the EU awarding body); and
  - the most recent site visit report

Both the letter of accreditation and the site visit report must be provided on headed paper of the awarding body.

- the awarding body must be able to demonstrate to the Department of Justice and Equality that it has satisfied itself that the provider has the capacity, resources and expertise (including qualifications and experience of staff) to deliver its programmes.<sup>7</sup>
- the immigration and academic track record and pass rates on the programme must be to the satisfaction of the Department of Justice and Equality where applicable.
- the EU awarding body must also be in good standing with the regulatory authorities, including immigration authorities, in the home jurisdiction. In this regard, the Department of Justice and Equality may liaise with such authorities to confirm the awarding body's current standing.

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<sup>7</sup> Awarding bodies are required to make themselves available to meet with the Department of Justice and Equality at the point of application for inclusion of programmes in the Interim List and thereafter as deemed necessary

- the EU awarding body must confirm that there are no outstanding quality assurance or related student services issues regarding the provider's delivery of programmes for which inclusion in the Interim List is sought.
- all relevant records setting out the relationship between the EU awarding body and the Irish provider, together with the terms and conditions applicable to the provision of programmes, must be provided on request to the immigration authorities.
- information provided to the immigration authorities will be shared as necessary with members of the Interim List Committee, i.e. the Department of Education and Skills.

### **Programmes offered by providers recognised by Irish or EU English language services recognition authorities**

- the provider must include:
  - confirmation (i.e. a letter or equivalent) of current recognition from the Irish or EU English language services recognition authority; and
  - the most recent site visit report

Both the confirmation of current recognition and the site visit report must be provided on headed paper of the Irish or EU English language services recognition authority.

- the awarding body must be able to demonstrate to the Department of Justice and Equality that it has satisfied itself that the provider has the capacity, resources and expertise (including qualifications and experience of staff) to deliver its programmes.<sup>8</sup>
- the immigration and academic track record and pass rates on the programme must be to the satisfaction of the Department of Justice and Equality where applicable.
- the Irish or EU English language services recognition authority must also be in good standing with the regulatory authorities, including immigration authorities, in the home jurisdiction. In this regard, the Department of Justice and Equality may liaise with such authorities to confirm the awarding body's current standing.
- the Irish or EU English language services recognition authority must confirm that there are no outstanding quality assurance or related student services issues at the time of application regarding the provider's delivery of programmes for which inclusion in the Interim List is sought.
- all relevant records setting out the relationship between the Irish or EU English language services recognition authority and the Irish provider, together with the terms and conditions applicable to the provision of programmes, must be provided on request to the immigration authorities.
- information provided to the immigration authorities will be shared as necessary with members of the Interim List Committee, i.e. the Departments of Justice and Equality and Education and Skills.

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<sup>8</sup> Awarding bodies are required to make themselves available to meet with the Department of Justice and Equality at the point of application for inclusion of programmes in the Interim List and thereafter as deemed necessary

## **Duration and attendance requirements for eligibility for inclusion of an English Language Programme in the Interim List:**

1. Non-EEA students must be attending the programme on a full-time, daytime basis, which is defined as students attending between the hours of 9am and 5pm on a minimum of four days between Monday and Friday each week. Formal timetabled hours for student contact must amount to at least 15 hours (15 x 60 minutes) per week, excluding breaks. The programme must operate for a minimum of 25 weeks over a 7 month period; and the tuition element must constitute at least 375 hours during that period. Immigration permission may be given for up to 8 months at the discretion of the immigration registration officer.
2. The hours of tuition must be appropriate in terms of the aims, objectives and learning outcomes set for the programme to enable the student to successfully achieve the minimum exit score / grade for the end-of-programme exam. Modifying the tuition hours for the purposes of meeting the minimum duration criteria for the Interim List is not acceptable.
3. A provider must also display the detailed timetables (in calendar format) for all its programmes on its website in a manner freely accessible to the public.
4. On enrolment, the provider must give each student a written timetable clearly identifying the daily and weekly tuition times with dates. Holiday periods must be outlined in advance. The programme schedule, including holiday periods, must be presented by the student for inspection to the Immigration Officer during the student's registration at the GNIB. The programme timetable must be set out in such a way that holiday periods cannot at any point exceed 1/3 of the total weeks elapsed (front loading of holidays will not be permitted). Students' timetables cannot be changed from that originally presented to the GNIB at the point of registration. It is the responsibility of providers to provide students with tuition as stated in this timetable.
5. Attendance by students is defined by the GNIB / INIS as attending the full designated tuition hours i.e. arriving more than 15 minutes late or leaving more than 15 minutes early means the student is marked absent for the class / class segments. Providing this leeway is not intended to be adopted by providers as a mechanism for allowing students to regularly arrive late or leave early without being marked absent. Attendance sheets must be signed by the class teacher. The teacher is also required to enter a total at the end of the attendance sheet, indicating the overall number of students who were in attendance. Manual attendance sheets must be retained by the provider for a minimum of 12 months for inspection and will be checked on inspection against any computer records retained. INIS also reserves the rights to request data returns outlining data on students including attendance figures.



## **Part 3: Eligibility Criteria for Providers Seeking to have English Language Programmes Included in the Interim List**

### **Eligible Providers**

An *English Language programme* as defined in Part 2, is eligible for inclusion in the Interim List when it meets the programme criteria set out in Part 2 and is offered by one of the following recognised Irish awarding bodies, which meet the 'Other Conditions' set out in Part 4 of this document:

- an institute of technology
- a university in the State<sup>9</sup>
- National University of Ireland
- Dublin Institute of Technology
- Royal College of Surgeons in Ireland

OR when the provider offering the programme meets the ownership, academic 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<sup>10</sup>, beneficial owners, directors, shareholders 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
- iii. declare any 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. Providers are also obliged to ensure that the information submitted to INIS remains up-to-date and are therefore required to communicate any changes of ownership to INIS within 5 working days of such changes taking place. Failure to do so may result in programmes being removed from the Interim List.**

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<sup>9</sup> Dublin City University; National University of Ireland, Galway; Maynooth University; Trinity College Dublin; University College Cork; University College Dublin; University of Limerick

<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.

\*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 over 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.

### **Provider Track Record and Governance**

A provider must<sup>11</sup>:

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. Managers include individuals who are employed as “*Director of Studies*”;
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; and
6. have never been the subject of an order under Section 160 of the Companies Act 1990<sup>12</sup>
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 is in good financial standing;<sup>13</sup>
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;

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

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

<sup>13</sup> INIS reserves the right to request management accounts and, in certain circumstances, audited accounts from applicants. INIS will also liaise with the appropriate authorities in relation to a provider’s broad requirements.

- c. how these programmes and students are, and will be, accommodated within the current premises with the resources available;
  - d. the number of classrooms available for the delivery of programmes for which inclusion in the Interim List is sought; and
  - e. projected recruitment of EEA and non-EEA students on such programmes for the next three years. The annual student recruitment declaration must be based on a maximum class size of 15 students, a maximum of two sessions per day between 9am and 5pm i.e. annual student recruitment = (number of students per class [maximum 15]) x (number of available classrooms) x (number of daily classes [maximum 2]) x number of full programmes delivered annually [maximum 2]).
  - 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 INIS within 5 working days of such changes taking place. Failure to do so may result in programmes being removed from the Interim List
  - g. have appropriate administrative staffing arrangements:
    - i. 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;
    - ii. all academic staff must have a minimum of a major award at level 7 on the National Framework of Qualifications (or equivalent) and a recognised ELT certificate (or equivalent). Providers must submit details of the qualifications held by all staff members at the point of application and such documents must be available for inspection at any time. Changes to teaching staff must be communicated to INIS in the required format within 5 working days of such changes taking place. Failure to do so may result in programmes being removed from the Interim List. It should also be noted that where high instances of teacher turnover are present, the provider will be subject to greater scrutiny by INIS;
  - h. documented published procedures must be in place for the following:
    - i. checking of qualifications prior to granting employment;
    - ii. the actions to be taken where qualifications are found not to meet the minimum requirements;
    - iii. the dismissal of a staff member or removal of a staff member from teaching duties where issues are subsequently identified regarding the qualification.
    - iv. all academic management staff must have a minimum of 5 years' recent and consecutive experience in the field of ELT;
11. 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 English language 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.<sup>14</sup> These provisions specify the maximum time from receipt of

<sup>14</sup> Please refer to Part 4, Student Services (5 and 6) in relation to student protection requirements.

- request for 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 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 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 INIS 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 INIS requirements.
  - f. **end-of-course exam entry and recording of grades / scores received:** The following must be documented:
    - i. the process of evaluation of student achievement based on exit grades / scores, or in the case of programmes leading to awards 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 the exam is mandatory and agrees that (s)he will sit the exam. The 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 under i – iii above.

The record of grades received must be available on request to students, INIS 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.

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

## **Part 4: Other Conditions for Providers Seeking to have Programmes Included in the Interim List:**

### **Teaching and Learning**

Providers offering English language programmes which are eligible for inclusion in the Interim List must:

1. enrol a maximum of no more than 15 students per class, i.e. each student is enrolled for the duration of the programme and registered for a specific class. Students cannot change classes during the course, or attend any classes other than the one for which they are registered for the duration of the programme;
2. have mandatory attendance requirements of a minimum 85% attendance for all enrolled students. The system of taking and recording attendance must be documented and publicly available. Where a student has 25% or more uncertified absence in the first six weeks of their programme, this must be communicated to the INIS at the following email address: [internationaleducationproviders@justice.ie](mailto:internationaleducationproviders@justice.ie). Where a student cannot make up attendance to a minimum of 85% before the programme ends the student must be informed that they do not meet the attendance requirements and this fact will be communicated to INIS. There is no mechanism permitted whereby students can make up an uncertified absence(s) through additional classes, either during or post the end of the programme;
3. have documentation which clearly states the number of classroom tuition hours, i.e. a minimum of 15 x 60 minutes per week. This tuition time minimum does not include breaks;
4. have a “student handbook” or equivalent document, which is available to students with information on the programme, its operation and obligations on the part of the student. The information contained in the student handbook must be up-to-date and relevant to the Irish context;
5. have a “teacher handbook” or equivalent document, which is available to teachers with information on their responsibilities and duties, including a code of conduct and disciplinary measures to be taken by the provider.

### **Student Services**

Providers offering English language 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. INIS would not expect a non-EEA student enrolled in a programme of study to also have an employment role within the same school in view of a potential conflict of interest;
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 have their unspent fees and related costs reimbursed<sup>15</sup>. 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 enrolls 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 INIS 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](mailto:internationaleducationproviders@justice.ie) email address in the required format on a monthly basis. 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.

### **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>16</sup>
2. English language programmes eligible for inclusion in the Interim List must be offered in premises which:

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<sup>15</sup> Part 4: Student Services, points 4 and 5 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.

<sup>16</sup> Part 4: 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.

- 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) has classroom which have:
    - i. a floor area for seated occupancy of not less than 1.56 sq. meters per person;
    - ii. at least one window with a minimum glass area equivalent to one-tenth of the floor area, and of which at least one part shall open; and
    - iii. 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 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.

### **Student Profile and Track Record**

Providers offering English language 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) and retain records of exam registration and results for a three year period. Evidence of registration of students must be supplied to INIS in the required format on a monthly basis at the [internationaleducationproviders@justice.ie](mailto:internationaleducationproviders@justice.ie) address. Failure to do so may result in a provider being removed from the Interim List;
3. seek to ensure a good linguistic mix in the class, i.e. a multi-cultural classroom and students with a variety of mother tongues, and provide a student profile to facilitate language learning opportunities as evidenced in the business plan and in the current enrolments; and
4. ensure student progression across programmes, i.e. a non-EEA student may not be enrolled on a second consecutive programme at the same or lower level than the first programme on which they were enrolled as a visa-required student.



**NOTE:**

Any other information required regarding the programme(s) submitted by the provider, the award(s) to which they lead, the awarding body and / or the Irish or EU English language services recognition authority as appropriate, or the provider will be sought by the Department of Justice and Equality from the provider and / or the awarding body and / or the Irish or EU English language services recognition authority 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 and Equality 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 staffing arrangements. 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 Equality 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 Equality 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,<sup>17</sup> 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 8 month period and completion rates per programme / award;
  - Number of intended intakes and enrolment dates for next 8 month period for each programme the provider is seeking to include in the Interim List or has included in the Interim List;
  - Number of programmes and award / exam type(s);
  - Teachers' qualifications documents;
  - 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

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<sup>17</sup> In the case of inspections undertaken by the Department of Justice and Equality or the Garda National Immigration Bureau, immigration officers may request additional information directly from providers as they require it.

## **Part 5: 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 Equality and Education and Skills 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 INIS 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 INIS 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 INIS 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 and Equality 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 Equality and Education and Skills. The Interim List Committee will meet in advance of each Interim List update, although extraordinary meetings may also be held if required.

In the case of unsuccessful applications, applicants will be notified by the Department of Justice and Equality by email in advance of the update of the Interim List and 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 by the applicant. Applications may be refused or awarded provisional status<sup>18</sup> by the Interim List Committee. 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

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<sup>18</sup> 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.

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. The appeal application will then be examined by more senior officials of the two Departments who will review the initial findings of the Committee and any additional information 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.

### **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, INIS 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 INIS 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 along with applications as outlined above. 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.

### **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 and Equality 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 and Equality 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: <sup>19</sup>

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<sup>19</sup> Other circumstances may arise outside of those listed above which warrant the removal of a provider and / or its programmes from the Interim List

## **Basis and process for removal of English language programmes from the Interim**

### **List:**

- ***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 and Equality 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).
- ***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.
- ***The English language examining body associated with a programme listed on the ILEP has ceased its relationship with the provider:*** If any programme included in the Interim List no longer leads to an exam listed in the ELT criteria, the programme will be removed within 5 working days 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).
- ***Providers found to have failed to notify INIS of changes since its previous application was submitted, e.g. in respect of changes to teaching staff :*** Where such changes arise, the provider must inform the Department of Justice and Equality 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.
- ***Providers found to regularly permit students to arrive up to 15 minutes late or leave up to 15 minutes early to avoid students being marked absent :*** Where such behaviour occurs regularly, 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 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.

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 INIS 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.

In the case of provider closure or where a provider has advised INIS that it is no longer offering a programme(s), removal of the programme(s) from the Interim List will follow immediately.

**Please note:** The Department of Justice and Equality 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 once 5 working days notice has been served, and in circumstances where an appeal is lodged, the Appeal Committee upholds the original decision.

**Please note: In addition to the above bases for removal of programme(s) from the Interim List, certain, or all, programmes of a provider(s) may be subject to an immediate temporary suspension of visa issuance for non-EEA students pending the outcome of investigation by the Department of Justice and Equality 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 Equality 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 in the specified timeframe;
- where accreditation by an awarding body or recognition by an Irish or EU English language services recognition authority has been suspended and / or where a provider is subject to sanctions by an awarding body or recognition by an Irish or EU English language services recognition authority 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 onto 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;
- 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) and / or Irish or EU English language services recognition authority(ies) as applicable.

**Note:** INIS 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.