

2012

CHAPTER D-2.1

An Act respecting the Authority to Provide Degree Programs
and to Grant Post-secondary Degrees and making
consequential amendments to other Acts

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(Assented to May 16, 2012)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I Introductory Matters

Short title

1 This Act may be cited as *The Degree Authorization Act*.

Interpretation

2(1) In this Act:

- (a) “**applicant**” means an educational institution that applies for an authorization;
- (b) “**authorization**” means an authorization issued pursuant to this Act;

- (c) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (d) **“degree”** means any recognition in writing of academic achievement granted by an educational institution:
- (i) that:
 - (A) is called a degree, including the degrees of associate, bachelor, master and doctorate; or
 - (B) implies, or would be reasonably understood as granting or conferring, a degree, including a diploma, certificate, or other document or thing that includes a reference to associate, bachelor, master or doctorate; and
 - (ii) that is not a theological degree;
- (e) **“degree program”** means a program of post-secondary study leading to a degree;
- (f) **“educational institution”** means any person, agency, organization, association, enterprise, institution or body that carries on post-secondary educational activities;
- (g) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (h) **“prescribed”** means prescribed in the regulations;
- (i) **“quality assurance body”** means the quality assurance body established pursuant to section 9;
- (j) **“quality assurance review”** means a quality assurance review carried out in accordance with this Act and the regulations.
- (2) For the purposes of this Act, **“providing a degree program”** means providing all or part of a degree program, including providing or facilitating one or more of the following on an ongoing, regular or frequent basis, whether directly or through an agent or contractor:
- (a) lectures, tutorials, seminars or academic assessments;
 - (b) academic advisory or counselling services, or admission of students to all or part of a degree program;
 - (c) collecting tuition or other fees relating to admission to all or part of a degree program;
 - (d) classroom space or library facilities.

Application of Act

3(1) This Act does not apply to:

- (a) the University of Regina; or
- (b) the University of Saskatchewan.

(2) Subject to subsection (1) and the regulations, this Act applies to any educational institution that:

- (a) has a physical presence in Saskatchewan; or
- (b) provides distance education to Saskatchewan residents, and, in the minister's opinion, it is not reasonably evident that the degree program is provided by an educational institution outside Saskatchewan.

(3) For the purposes of clause (2)(a), evidence of physical presence in Saskatchewan includes one or more of the following:

- (a) a head office in Saskatchewan;
- (b) a postal address, telephone number or fax number in Saskatchewan;
- (c) the occupancy of real property in Saskatchewan for the purpose of providing a degree program;
- (d) the employment of or contracting with:
 - (i) an agent, manager or other person in Saskatchewan who provides a degree program in Saskatchewan; or
 - (ii) an employee, contractor or other organization that provides a degree program or grants degrees in Saskatchewan;
- (e) any other prescribed elements of physical presence.

PART II

Authority of Educational Institutions to Grant Degrees or to Provide Degree Programs

Restriction on granting degrees, etc.

4(1) Subject to the regulations, no educational institution shall directly or indirectly do any of the following without holding an authorization to do so:

- (a) grant a degree in Saskatchewan;
- (b) provide a degree program in Saskatchewan;
- (c) advertise a degree program respecting a degree to be granted in Saskatchewan;
- (d) sell, offer for sale, advertise for sale or provide by agreement for a fee, reward or other remuneration a degree to be granted in Saskatchewan;
- (e) advertise a degree program respecting a degree to be granted outside Saskatchewan if the advertising is done in a manner such that, in the minister's opinion, it is not reasonably evident that the degree is granted by an educational institution outside Saskatchewan that is not authorized to grant degrees in Saskatchewan.

(2) Notwithstanding subsection (1), an educational institution may directly or indirectly advertise and provide a degree program in Saskatchewan if:

- (a) the educational institution does so pursuant to an agreement with another educational institution that is authorized by an Act or by the minister pursuant to this Act to provide the degree program; and
- (b) the degree to which the degree program leads is granted only by that other educational institution that is authorized to provide the degree program.

(3) Notwithstanding subsection (1), an educational institution that, as at December 1, 2011, was directly or indirectly advertising or providing a degree program in Saskatchewan may continue, without an authorization, to carry out that activity until November 30, 2016 if the educational institution and the degree program are exempted by the regulations.

Honorary degrees

5 An educational institution may grant an honorary degree in Saskatchewan if the educational institution holds an authorization to grant the corresponding degree in Saskatchewan.

Use of “university”

6 Subject to the regulations, no person shall use the word “university” or “varsity” or any derivation or abbreviation of either of those words in the name of an educational institution or in any advertising relating to an educational institution, without the prior approval of the Lieutenant Governor in Council.

PART III Application to Minister

Application to minister

7(1) Any educational institution that intends to obtain an authorization or a renewal of an authorization shall:

- (a) apply to the minister in the form required by the minister;
- (b) demonstrate that the proposed degree program meets the prescribed criteria; and
- (c) subject to subsection (3), submit to the minister the prescribed fee for a quality assurance review.

(2) The prescribed portion of the fee submitted pursuant to clause (1)(c) is non-refundable.

(3) In the prescribed circumstances, the minister may waive the fee mentioned in clause (1)(c).

Minister’s decision

8(1) On receipt of a completed application pursuant to section 7, the minister may, subject to the approval of the Lieutenant Governor in Council:

- (a) refer the application to the quality assurance body for review in accordance with section 15; or
- (b) reject the application.

- (2) In making a decision pursuant to subsection (1), the minister:
- (a) shall consider the prescribed circumstances and the prescribed criteria for referring an application to the quality assurance body for review or for rejecting an application; and
 - (b) may consider any other matters that the minister considers appropriate.

PART IV Quality Assurance Review

Quality assurance body

- 9(1)** The Lieutenant Governor in Council shall establish a quality assurance body for the purposes of this Act.
- (2) The quality assurance body shall be known by any name given to it by the Lieutenant Governor in Council.
- (3) The quality assurance body shall consist of not less than three members, who are appointed by the Lieutenant Governor in Council.

Terms of appointment

- 10(1)** A person appointed to the quality assurance body:
- (a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and
 - (b) is eligible for reappointment.
- (2) No member of the quality assurance body shall hold office for more than two consecutive terms.
- (3) If a member of the quality assurance body dies or resigns, the person ceases to be a member of the quality assurance body on the date of death or on the date on which the resignation is received by the quality assurance body, as the case may be.
- (4) If there is a vacancy in the membership of the quality assurance body, the Lieutenant Governor in Council may:
- (a) appoint a person for the remainder of the term of the person who vacated the office; or
 - (b) appoint a person for the term mentioned in subsection (1).
- (5) A vacancy in the membership of the quality assurance body does not impair the power of the remaining members of the quality assurance body to act.

Quorum

- 11** The Lieutenant Governor in Council may fix a quorum for the transaction of business at meetings of the quality assurance body.

Officers

- 12(1)** The Lieutenant Governor in Council may designate one member of the quality assurance body as the chairperson of the quality assurance body and may designate another member of the quality assurance body as vice-chairperson.

(2) In the absence or inability to act of the chairperson, the vice-chairperson may exercise the powers of the chairperson and shall perform the duties of the chairperson.

Remuneration and reimbursement

13(1) The Lieutenant Governor in Council shall fix the remuneration of members of the quality assurance body.

(2) The members of the quality assurance body are entitled to be reimbursed for travel and incidental expenses incurred in the performance of their responsibilities as members of the quality assurance body at any rates that may be approved for members of the public service of Saskatchewan.

Clerical assistance

14 The minister may provide any clerical or other assistance to the quality assurance body that the quality assurance body may reasonably require.

Powers and functions

15(1) The quality assurance body shall:

- (a) establish and publish criteria for recommending or refusing to recommend the authorization of a degree or a degree program;
- (b) establish and undertake a quality assurance review process with respect to applicants;
- (c) with respect to each application referred to it, make a recommendation to the minister, in writing:
 - (i) to issue the authorization, with or without terms and conditions; or
 - (ii) to reject the application for authorization;
- (d) exercise any other prescribed powers and perform any other prescribed functions.

(2) The minister may request the quality assurance body to provide the minister with a report respecting any matter within the quality assurance body's functions, and the quality assurance body shall provide the report within the time requested by the minister.

PART V
Authorization

Authorization

16(1) On receipt of a recommendation of the quality assurance body pursuant to subclause 15(1)(c)(i), the minister may:

- (a) issue the authorization requested; or
- (b) subject to section 17 and the approval of the Lieutenant Governor in Council, reject the application for authorization.

(2) In addition to any terms and conditions that may be recommended by the quality assurance body pursuant to subclause 15(1)(c)(i), the minister may attach any terms and conditions to an authorization that the minister considers appropriate, including the following:

- (a) an expiration date for the authorization;
- (b) a time limit for the implementation of a degree program mentioned in an authorization;
- (c) the submission of information as requested by the minister.

(3) The minister shall not issue an authorization unless he or she is satisfied that the applicant has:

- (a) given security that complies with any prescribed requirements and is adequate to protect the interests of students; and
- (b) made adequate arrangements to protect the interests of students by ensuring:
 - (i) that students have access to their transcripts;
 - (ii) that the arrangements comply with any prescribed requirements.

(4) On receipt of a recommendation of the quality assurance body pursuant to subclause 15(1)(c)(ii), the minister shall reject the application for authorization.

Opportunity to be heard

17(1) If the minister intends to reject an application for authorization pursuant to clause 16(1)(b), the minister shall:

- (a) provide the applicant with written notice of the proposed rejection, including written reasons; and
- (b) within 20 business days after the written notice mentioned in clause (a) is given, provide the applicant with an opportunity to make written representations to the minister as to why the application should not be rejected.

(2) If the minister considers it appropriate, the minister may provide an applicant mentioned in subsection (1) with an opportunity to make oral representations to the minister at a time and place directed by the minister.

(3) If an applicant is provided with an opportunity to make oral representations, the minister may:

- (a) adjourn or change the date and time set for making the oral representations; and
- (b) make any decision or take any action the minister considers appropriate if the applicant fails to attend at the date and time set for oral representations.

(4) After the applicant has been provided with an opportunity to be heard in accordance with this section, the minister may:

- (a) issue the authorization requested; or
- (b) subject to the approval of the Lieutenant Governor in Council, reject the application for authorization.

Amendment, suspension or revocation of authorization

18(1) On the written request of a holder of an authorization, the minister may amend the authorization if the minister considers it appropriate to make the amendment.

(2) The holder of an authorization shall promptly notify the minister if the holder believes that it is not complying with or will be unable to comply with all of the terms and conditions of the authorization.

(3) Subject to section 19, the minister, on his or her own initiative, may amend, suspend or revoke an authorization if:

- (a) the holder of the authorization has contravened a term or condition imposed on the authorization or any provision of this Act or the regulations;
- (b) in the minister's opinion, the degree or degree program for which the authorization was issued no longer meets the prescribed criteria or has significantly changed with respect to content, activity or location; or
- (c) in the minister's opinion, the amendment, suspension or revocation of the authorization is necessary in the public interest.

(4) If the minister rejects an application for authorization pursuant to section 8, clause 16(1)(b) or subsection 16(4) or revokes an authorization pursuant to this section, the minister may prohibit the educational institution from applying for any authorization for a period not exceeding two years.

Minister to provide notice

19(1) Before amending, suspending or revoking an authorization pursuant to section 18, the minister shall provide the holder of the authorization with:

- (a) written notice of the proposed action, including written reasons; and
- (b) an opportunity to make written representations to the minister within 10 business days after the written notice mentioned in clause (a) is given.

(2) If the minister considers it appropriate, the minister may provide the holder of the authorization with an opportunity to make oral representations to the minister at a time and place directed by the minister.

(3) If the holder of the authorization is provided with an opportunity to make oral representations, the minister may:

- (a) adjourn or change the date and time set for making oral representations; and
- (b) make any decision or take any action the minister considers appropriate if the holder of the authorization fails to attend at the date and time set for oral representations.

(4) If, in the minister's opinion, it is in the public interest to do so, the minister may immediately amend, suspend or revoke an authorization but shall provide the holder of the authorization with an opportunity to make written representations within 10 business days after amending, suspending or revoking the authorization.

PART VI Offences and Enforcement

Minister may apply for enjoining order

20(1) The minister may apply to a judge of the Court of Queen's Bench for a final order enjoining any person from proceeding contrary to this Act, the regulations or the terms and conditions of an authorization.

(2) On an application pursuant to this section, the judge of the Court of Queen's Bench may make the order requested or any other order that the judge considers appropriate on any terms and conditions that the judge considers appropriate.

Offences

21(1) No person shall:

- (a) make a false or misleading statement or provide false or misleading information to the minister or to the quality assurance body;
- (b) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made, to the minister or to the quality assurance body;
- (c) fail to comply with the terms and conditions of an authorization; or
- (d) fail to comply with any provision of this Act or the regulations.

(2) Every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$100,000.

(3) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalty mentioned in subsection (2) whether or not the corporation has been prosecuted or convicted.

(4) In addition to any penalty imposed pursuant to this Act, the convicting court, having regard to the nature of the offence and the circumstances surrounding its commission, may make an order doing one or both of the following:

- (a) prohibiting the convicted person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence;
- (b) requiring the convicted person to do any other thing that, in the opinion of the court, is necessary in the circumstances.

Immunity

22 No action or other proceeding lies or shall be commenced against the minister, the quality assurance body, any member of the quality assurance body, the Crown in right of Saskatchewan or any officer or employee of the Crown in right of Saskatchewan for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any function or duty imposed by this Act or the regulations.

PART VII
Regulations

Regulations

23 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing physical elements for the purposes of clause 3(3)(e);
- (c) for the purposes of subsection 4(3), exempting educational institutions and degree programs from the application of subsection 4(1);
- (d) respecting the use of the word “university” or “varsity”, including exempting educational institutions from the application of section 6;
- (e) prescribing the criteria to be met with respect to degree programs to be provided in Saskatchewan;
- (f) respecting a process for recognizing degree programs provided by educational institutions that hold authorizations or consents from other jurisdictions that are obtained pursuant to legislation similar in nature to this Act;
- (g) exempting educational institutions mentioned in clause (f) from the application of all or part of this Act;
- (h) for the purposes of section 7:
 - (i) prescribing the fee for a quality assurance review;
 - (ii) prescribing the portion of the fee that is non-refundable; and
 - (iii) prescribing the circumstances in which the minister may waive the fee;
- (i) for the purposes of clause 8(2)(a), prescribing the circumstances and the criteria to be considered by the minister;
- (j) with respect to the quality assurance body:
 - (i) prescribing procedures for reviewing applications and other matters referred to it;

- (ii) prescribing policies and principles that it must take into consideration in establishing criteria to apply in reviewing applications referred to it and in making recommendations to the minister; and
- (iii) prescribing additional powers and functions of the quality assurance body;
- (k) for the purposes of subsection 16(3), prescribing requirements relating to the giving of security and access to student transcripts;
- (l) governing claims made against the security mentioned in subsection 16(3);
- (m) governing the naming of theological degrees to be granted in Saskatchewan;
- (n) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART VIII Consequential Amendments

R.S.S. 1978, c.U-5, section 3 amended

24(1) Section 3 of *The University of Regina Act* is amended in the manner set forth in this section.

(2) Subsection (1) is amended by striking out “or, except The University of Saskatchewan, shall have power to grant degrees other than in theology”.

(3) Subsection (2) is repealed.

(4) Subsection (5) is amended by striking out “subsection (2), (3) or (4)” **and substituting** “subsection (3) or (4)”.

S.S. 1995, c.U-6.1, section 6 amended

25 Subsection 6(3) of *The University of Saskatchewan Act, 1995* is repealed.

PART IX Coming into Force

Coming into force

26 This Act comes into force on proclamation.

