

**Act Establishing the Foundation Accreditation Council
(Accreditation Council Act – *Akkreditierungsratsgesetz*)**

Of 15 February 2005^{1,2}

Section 1² Name, legal form and domicile

(1) The public-law foundation with legal capacity established as the “Foundation for the Accreditation of Study Programmes in Germany” by this Act as it applied until 23 October 2017 henceforth bears the name “Foundation Accreditation Council”. The Foundation Accreditation Council is a joint institution of the States for accreditation and quality assurance in teaching and learning at German institutions of higher education. The Foundation is domiciled in Bonn.

(2) The Foundation uses an official seal as laid down in its Statutes.

Section 2² Purpose of the Foundation

The Foundation serves to fulfil the following tasks:

1. by awarding the Foundation seal, it accredits and reaccredits study programmes and internal quality assurance systems of higher education institutions, as well as other quality assurance processes agreed between the Accreditation Council and the respective Land, on the basis of the criteria set out in article 2 of the Interstate Study Accreditation Treaty (*Studienakkreditierungsstaatsvertrag*) of 12 June 2017,
2. having regard to developments in Europe, it lays down the requirements for recognition of accreditations from foreign organisations,
3. it promotes international cooperation in accreditation and quality assurance,
4. it reports regularly to the States on the development of the two-cycle degree system and on quality development in the context of accreditation,
5. it authorises agencies within the meaning of article 3 (2) sentence 2 of the Interstate Study Accreditation Treaty; as a condition for authorisation, an agency must demonstrate that it is reliably able to exercise the tasks of assessment and of preparation of review reports; for agencies listed in the European Quality Assurance Register for Higher Education (EQAR), there is a rebuttable presumption that this is the case; and
6. it supports the States in further development of the German quality assurance system and submits proposals for the decrees to be issued under article 4 of the Interstate Study Accreditation Treaty.

Section 3² Authorisation of agencies by the Accreditation Council

(1) The Foundation authorises agencies within the meaning of article 3 (2) sentence 2 of the Interstate Study Accreditation Treaty.

(2) As a condition for authorisation, an agency must demonstrate that it is reliably able to exercise the tasks of assessment and of preparation of review reports. For EQAR-listed agencies, there is a rebuttable presumption that this is the case.

Section 4³ Foundation assets; fees

(1) For fulfilment of the Foundation's purpose under section 2, the Foundation receives an annual grant from the States in accordance with the budget law of each Land. The grant is only made in so far as the Foundation's administrative expenses are not covered by the charging of fees under subsection (4).

(2) The Foundation may accept grants from third parties.

(3) Income from the Foundation's assets and other income may solely be used in accordance with the Foundation's purpose.

(4) To cover its administrative expenses, the Foundation may charge fees, as specified in its fee schedule, for the conduct of accreditations under article 3 (1) of the Interstate Study Accreditation Treaty and of authorisations under article 5 (3) 5 of the Interstate Study Accreditation Treaty. The fee schedule must state at minimum the purposes for which fees are charged, the rates and when payment is due. Sections 3 to 5 and 9 to 22 of the North Rhine-Westphalia Fees Act (*Gebührengesetz für das Land Nordrhein-Westfalen*) as promulgated on 23 August 1999 (GV. NRW.* p. 524), most recently amended by the Act of 8 December 2015 (GV. NRW. p. 836), apply accordingly unless otherwise specified in the fee schedule. The fee schedule is adopted by the Foundation Council in consultation with the Standing Conference of the Ministers of Education and Cultural Affairs of the States in the Federal Republic of Germany.

Section 5³ Statutes

(1) The Foundation adopts statutes that are resolved by a two-thirds majority of the members of the Foundation Council and require approval of the ministry in charge of higher education; the Statutes are published in the North Rhine-Westphalia Ministerial Gazette. The same applies for amendments to the Statutes.

(2) The Statutes stipulate, in particular, upon representation of the Foundation's bodies, the principles guiding the working relationship between its bodies and details on the tasks and mode of operation of the Accreditation Council, on incompatibility between membership of the Accreditation Council and of an agency, on the business plan and annual financial statements, on formal approval of the actions of the Board and on evaluation of the Foundation's work.

(3) The Foundation's bodies may adopt rules of procedure in accordance with the Statutes.

Section 6 Bodies of the Foundation

(1) The Foundation's bodies are

1. the Accreditation Council,
2. the Board,
3. the Foundation Council.

(3) The bodies must implement gender mainstreaming in all proposals and decisions.

* GV. NRW: *Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen*
(North Rhine-Westphalia Law Gazette)

Section 7² Accreditation Council

(1) The Accreditation Council decides upon all matters of the Foundation. In particular, it accredits and reaccredits, in accordance with article 3 (5) of the Interstate Study Accreditation Treaty, study programmes and internal quality assurance systems of German higher education institutions; accreditation or reaccreditation may be issued subject to a proviso or to revocation, or subject to a condition or to a reservation that a condition may be subsequently inserted, amended or added to. It makes its decisions by a majority of its members. The Foundation's day-to-day business is deemed to be delegated to the Board in so far as the Accreditation Council does not reserve the right to decide on specific categories of business or specific cases itself.

(2) The Accreditation Council comprises:

1. eight professors from state or state-recognised higher education institutions in the Federal Republic of Germany representing at least the four subject groups humanities, social sciences, natural sciences and engineering sciences,
2. one representative of the German Rectors' Conference,
3. four representatives of the States in the Federal Republic of Germany,
4. five representatives from among professional practitioners, one of whom is a representative of the States ministries responsible for civil service employment law and collective bargaining law,
5. two students,
6. two foreign representatives with accreditation experience, and
7. in an advisory capacity, one representative of the agencies.

The members under sentence 1 no. 1 are nominated by the German Rectors' Conference and appointed by the Standing Conference of the Ministers of Education and Cultural Affairs of the States in the Federal Republic of Germany (the Standing Conference). In its nominations, the German Rectors' Conference ensures that due consideration is given to the different categories of higher education institution and the diversity of academic subjects and that the professors are not part of the management of their higher education institution. The members under sentence 1 nos. 2 and 5 are nominated by the German Rectors' Conference, the members under sentence 1 no. 3 by the Standing Conference, the representatives of the States ministries responsible for civil service employment law and collective bargaining law under sentence 1 no. 4 by the Standing Conference by mutual agreement with the German Rectors' Conference, the remaining members under sentence 1 nos. 4 and 6 jointly by the Standing Conference and the German Rectors' Conference and the member under sentence 1 no. 7 by agencies authorised by the Accreditation Council; they are then appointed by mutual agreement of the Standing Conference and the German Rectors' Conference for a period of four years; the Statutes may specify a shorter term of office for the students. Renomination and reappointment are permitted, including multiple times. If a member departs prematurely, the new member is nominated and appointed as soon as possible until the end of the current term of office; exceptions are stipulated on by the Statutes. At the end of their term of office, members remain in office until the appointment of a new member; the second half of sentence 6 applies accordingly. Members may be dismissed by the Foundation Council for cause. The members under sentence 1 nos. 1 to 6 may transfer their vote to another member of the same group.

(3) The Accreditation Council elects its chairperson and deputy chairperson from among the members under subsection (2) sentence 1 nos. 1, 2 or 3. They may not belong to the same group under subsection (2) sentence 1 no. 1, 2 or 3. Subsection (2) sentences 5 to 7 apply accordingly.

(4) When voting on matters of the kind referred to in article 3 (5) sentence 1 no. 2 of the Interstate Study Accreditation Treaty, the members under subsection (2) sentence 1 no. 1 have a double vote, which may only be cast en bloc.

(5) The members of the Accreditation Council serve pro bono. They receive reasonable reimbursement of their expenses and may receive an allowance.

(6) Further details, in particular on the conditions for resolutions and on the involvement of additional advisory members, are stipulated on by the Statutes.

Section 8 Board

(1) The Board implements the resolutions of the Accreditation Council and, in accordance with section 7 (1) sentence 4, conducts the day-to-day business of the Foundation; in all other respects, the powers of the Board are determined by the Statutes. The chairperson represents the Foundation in and out of court and for this purpose may appoint a representative for specific cases or specific categories of business.

(2) The Board comprises:

1. as chairperson, the chairperson of the Accreditation Council,
2. the deputy chairperson of the Accreditation Council,
3. the Managing Director of the Foundation.

(3) Further details are stipulated on by the Statutes.

Section 9³ Foundation Council

(1) The Foundation Council monitors the legality and cost-efficiency of the conduct of the Foundation's business by the Accreditation Council and the Board.

(2) The Foundation Council comprises:

1. six representatives of the States,
2. five representatives of the German Rectors' Conference.

The members under sentence 1 no. 1 are appointed by the Standing Conference and the members under sentence 1 no. 2 by the German Rectors' Conference for a period of four years; section 7 (2) sentences 5 to 7 apply accordingly. Members may transfer their vote to another member of the same group under sentence 1. Members of the Foundation Council may not simultaneously be members of the Accreditation Council.

Section 10³ Head office of the Foundation

(1) The Foundation maintains at its domicile a head office that is managed by the Managing Director. This supports the conduct of Foundation business and is subject to instruction in business matters by the chairperson of the Board.

(2) The immediate superior of Foundation employees is the chairperson of the Board. Foundation employees come under the collective agreements and other provisions applicable to employees in the Land in which the Foundation is domiciled. The chairperson of the Board's position as superior is subject to the general provisions of employment law and civil service law.

Section 11 Business management; financial reporting

(1) For the purposes of budgetary law, the Foundation is subject to Part VI of the North Rhine-Westphalia Fiscal Code (*Landeshaushaltsordnung*) as promulgated on 26 April 1999 (GV. NRW. p. 158), most recently amended by the Act of 2 July 2002 (GV. NRW. p. 284), unless otherwise specified by this Act.

(2) Before the beginning of each calendar year (financial year), the Board must prepare a business plan in due time, which is adopted by the Accreditation Council with the approval of the Foundation Council, that approval requiring the approval of the majority of its members under section 9 (2) no. 1. The business plan is the basis for income and expenditure; a list of the Foundation's posts is to be attached as an annex. If the Land draws up a budget for two or more years, the Foundation must do so likewise with regard to its business plans.

(3) Within six months of the end of the financial year, the Board must prepare the annual financial statements and submit them to the Accreditation Council and the Foundation Council together with the auditor's report, the statement of assets and liabilities and the activity report. Further details are stipulated on by the Statutes.

(4) The Foundation's budgetary and accounting audits are subject to audit by the Land audit institution.

(5) In all other respects, the provisions of the Land on budgetary, cash management and accounting matters and on auditing apply together with any administrative regulations issued in that regard.

Section 12³ Supervision

The Foundation is subject to the legal supervision of the ministry in charge of higher education. Section 76 (2) to (4) of the Higher Education Act (*Hochschulgesetz*) applies accordingly.

Section 13⁴ Transitional provisions

(1) The Foundation's Statutes must be revised without delay in accordance with the provisions of this Act. In so far as they conflict with this Act, the Statutes cease to be effective one year after this Act enters into force. Thereafter, the provisions of this Act apply until the Foundation makes provision in accordance with sentence 1. In so far as implementing provisions are required under this Act but not made, the ministry in charge of higher education may lay down such provisions after granting the Foundation a hearing.

(2) The Accreditation Council, the Board and the Foundation Council must be reconstituted without delay on the basis of this Act. Until then, the previous Accreditation Council under section 7 of this Act as it applied until 23 October 2017, the Board under section 8 of this Act as it applied until 23 October 2017 and the Foundation Council under section 9 of this Act as it applied until 23 October 2017 exercise the tasks and powers provided for each of them in this Act. If the regular term of office of the members of the Accreditation Council, the Board and the Foundation Council ends before their renomination or reappointment, their term of office is extended. Upon the appointment of the members of the Accreditation Council under section 7 (2), the members of the Board under section 8 (2) and the members of the Foundation Council under section 9 (2), the term

of office of the previous members of the Accreditation Council, the Board and the Foundation Council ends when this Act enters into force.

(3) If at the time of entry into force of the Interstate Study Accreditation Treaty, programme accreditation or system accreditation procedures have already begun for the purposes of article 16 (1) sentence 2 of that Treaty, the Accreditation Council within the meaning of article 16 (1) sentence 1 of the Interstate Study Accreditation Treaty remains the existing Accreditation Council under section 7 of the Act Establishing a Foundation for the Accreditation of Study Programmes in Germany. After reconstitution of the Accreditation Council under subsection (2), the accreditation council for the procedures under sentence 1 is the newly constituted Accreditation Council.

14⁴ Entry into force

This Act enters into force on the day following its promulgation.

The Land Government of North Rhine-Westphalia

The Minister-President

The Minister of Finance

The Minister of the Interior

The Minister of Justice

The Minister of Health, Social Affairs, Women and Family

The Minister of Schools, Youth and Children

The Minister of Science and Research

The Minister of Urban Development and Housing, Culture and Sport

¹ GV. NRW. p. 45, entry into force: 26 February 2005; amended by article 4 of the Art Colleges Law Reform Act of 13 March 2008 (GV NRW. p. 195), entry into force: 1 April 2008; article 7 of the Act of 16 September 2014 (GV. NRW. p. 547), entry into force: 1 October 2014; article 2 of the Act of 17 October 2017 (GV. NRW. p. 806), entry into force: 1 January 2018.

² Title and sections 1, 2, 3 and 7 amended by article 2 of the Act of 17 October 2017 (GV. NRW. p. 806), entry into force: 1 January 2018.

³ Sections 4, 5, 9, 10 amended and section 12 most recently amended by article 2 of the Act of 17 October 2017 (GV. NRW. p. 806), entry into force: 1 January 2018.

⁴ Section 13 inserted and the former section 13 renamed section 14 and amended by article 2 of the Act of 17 October 2017 (GV. NRW. p. 806), entry into force: 1 January 2018.