



Number 28 of 1971

NATIONAL COLLEGE OF ART AND DESIGN ACT 1971

REVISED

Updated to 10 November 2022

This Revised Act is an administrative consolidation of the *National College of Art and Design Act 1971*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Consumer Rights Act 2022 (37/2022)*, enacted 7 November 2022, and all statutory instruments up to and including the *Higher Education Authority Act 2022 (Commencement) Order 2022 (S.I. No. 554 of 2022)*, made 8 November 2022, were considered in the preparation of this Revised Act.

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Number 28 of 1971

NATIONAL COLLEGE OF ART AND DESIGN ACT 1971

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AN ACT TO ESTABLISH A BOARD TO BE KNOWN AS BORD AN CHOLAISTE NAISIUNTA EALAINNE IS DEARTHA, TO DEFINE ITS POWERS AND DUTIES AND TO PROVIDE FOR RELATED MATTERS. [1st December, 1971.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions transferred and references construed (21.10.2020) by *Further and Higher Education, Research, Innovation and Science (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 451 of 2020), arts. 2, 3(1)(a), (2), and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Further and Higher Education, Research, Innovation and Science.

(2) References to the Department of Education and Skills contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Further and Higher Education, Research, Innovation and Science.

3. (1) The functions vested in the Minister for Education and Skills -

(a) by or under the Acts specified in Part 1 of the Schedule, and

...

are transferred to the Minister for Further and Higher Education, Research, Innovation and Science.

(2) References to the Minister for Education and Skills contained in any Act or instrument made under such Act and relating to any functions transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Minister for Further and Higher Education, Research, Innovation and Science.

SCHEDULE

Article 3

Part 1

...

National College of Art and Design Act 1971 (No. 28 of 1971)

...

Interpretation. 1.—(1) In this Act, save where the context otherwise requires—

F1["academic council", in relation to the College, means the academic council of the College under section 20A;]

"An Bord" has the meaning specified in section 4 (1) of this Act; "the College" has the meaning specified in section 2 of this Act;

F1["An tÚdarás" means An tÚdarás um Ard-Oideachas;]

"the Commissioners" means the Commissioners of Public Works in Ireland; "the Director" has the meaning specified in section 17 of this Act;

"the establishment day" means the day appointed to be the establishment day for the purposes of this Act by order of the Minister under section 3 of this Act;

"functions" includes powers and duties;

"the Minister" means the Minister for Education;

F2["student of the College" means a person registered as a student by the College or a person who is a full-time officer of the student union of the College who was elected to his or her office while he or she was registered as a student by the College;]

F1["student union of the College" means the student union or other student representative body recognised by the College.]

(2) A reference in this Act to performance of functions includes, with respect to powers, a reference to exercise of powers.

(3) A reference in this Act to an officer of An Bord includes a reference to a member of the academic staff of the College.

Annotations

Amendments:

F1 Inserted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 117(b), S.I. No. 554 of 2022.

F2 Substituted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 117(a), S.I. No. 554 of 2022.

Modifications (not altering text):

C2 Functions transferred and reference to Minister construed (21.10.2020) by *Further and Higher Education, Research, Innovation and Science (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 451 of 2020), arts. 2, 3(1)(a), (2), and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Further and Higher Education, Research, Innovation and Science.

(2) References to the Department of Education and Skills contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Further and Higher Education, Research, Innovation and Science.

3. (1) The functions vested in the Minister for Education and Skills -

(a) by or under the Acts specified in Part 1 of the Schedule, and

...

are transferred to the Minister for Further and Higher Education, Research, Innovation and Science.

(2) References to the Minister for Education and Skills contained in any Act or instrument made under such Act and relating to any functions transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Minister for Further and Higher Education, Research, Innovation and Science.

SCHEDULE

Article 3

Part 1

...

National College of Art and Design Act 1971 (No. 28 of 1971)

...

The College.

2.—(1) In this Act “the College” means the college of art, crafts and design known as the National College of Art and situate at Kildare Street, Dublin.

(2) As on and from the establishment day, the College shall be known as An Coláiste Náisiúnta Ealaíne is Deartha.

Appointment of
establishment
day.

3.—The Minister may by order appoint a day to be the establishment day for the purposes of this Act.

Annotations

Editorial Notes:

E1 Power pursuant to section exercised (1.05.1972) by *National College of Art and Design Act 1971 (Establishment Day) Order 1972* (S.I. No. 108 of 1972).

Establishment of
An Bord.

4.—(1) There shall, by virtue of this section, be established on the establishment day a board to be known as Bord an Choláiste Náisiúnta Ealaíne is Deartha to perform the functions given to it by this Act (in this Act referred to as An Bord).

(2) An Bord shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and F3[[may, with the consent of the Minister, acquire, hold and dispose of land, an interest in land or other property](#)].

Annotations

Amendments:

F3 Substituted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 118, S.I. No. 554 of 2022.

Functions of An
Bord generally.

5.—(1) On and from the establishment day, An Bord shall carry out the management of the College and the organisation and administration of its affairs, and shall have all such powers as are necessary for or incidental to those purposes.

(2) In particular, and without prejudice to the generality of subsection (1) of this section, An Bord shall have the general functions of—

(a) establishing and carrying on schemes of education of such scope and extent as it may determine in art, crafts and design,

(b) providing courses for the training of persons as teachers of art,

- (c) providing courses and lectures for the further training of teachers of art as such teachers,
- (d) providing, if it so thinks fit, lectures on art, crafts and design for the public by members of its academic staff and other persons whom it considers suitably qualified for the purpose,
- (e) establishing and carrying on schemes (on which the amount of the expenditure by An Bord shall have been approved of by the Minister) for the giving of scholarships, bursaries, prizes and other awards in relation to art, crafts and design,
- (f) holding exhibitions of art and crafts of students of the College, exhibitions of art and crafts and exhibitions devoted to any other subject matter relevant to the activities of the College,
- (g) defraying the reasonable and necessary expenses incurred by members of its academic staff in attending, with the consent of An Bord, courses of instruction, seminars, lectures, conferences and exhibitions relevant to their duties as such members,
- (h) defraying the reasonable and necessary expenses incurred by members of An Bord in attending conferences and exhibitions relevant to their duties as such members and in visiting other colleges and institutions of or concerned with art, crafts or design,
- (i) providing courses of study in art, crafts and design—
 - (i) that are approved by any body established by the Minister or by Act of the Oireachtas after the passing of this Act for the purpose of granting degrees, diplomas and other similar educational awards, and
 - (ii) that lead to the grant of such degrees, diplomas or similar educational awards by that body,
- (j) subscribing to associations and institutions of or concerned with art, crafts or design.

F4[(2A) An Bord shall—

- (a) promote the success (including academic success) and reputation of the College,
- (b) satisfy itself that appropriate systems, procedures and practices are in place—
 - (i) for the internal performance management and accountability of the College in respect of—
 - (I) the performance of its functions, and
 - (II) the achievement of the objectives in the strategic development plan under *section 20C*,
 - and
 - (ii) in order to implement, and report on compliance with, the policies (whether set out in codes, guidelines or other documents, or any combination thereof) of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of the College,
- and
- (c) establish and implement arrangements for the management of the performance of the Director.]

F4[(2B) Without prejudice to the generality of *subsections (1), (2) and (2A)*, An Bord shall perform the following functions with regard to the College:

- (a) approve expenditure for major capital and investment projects;
- (b) approve annual financial statements;
- (c) provide for and maintain a system of audit;
- (d) provide for and maintain a system of risk management;
- (e) provide for and maintain a system of quality assurance;
- (f) review and oversee the implementation of major plans of action and provide strategic direction;
- (g) delegate such functions as may be appropriate to the Director;
- (h) manage the financial affairs of the College to ensure value for money and its financial viability;
- (i) account to An tÚdarás for funding provided to the College by An tÚdarás.]

(3) (a) An Bord shall have such other functions as may be assigned to it from time to time by the Minister by order.

(b) The Minister may by order, amend or revoke an order under this subsection, including an order under this paragraph.

(c) Every order under this subsection shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under the order.

F4[(3A) An Bord shall, in the performance of its functions, have regard to policies of the Government (including policies relating to education and training or remuneration of staff employed in the education sector) for the time being.]

F4[(3B) (a) For the purposes of the performance of its functions, An Bord shall establish procedures relating to resolution of disputes.

(b) Procedures established under *paragraph (a)* shall—

- (i) be established following consultation with each trade union and staff association recognised by An Bord and with the student union,
- (ii) provide for consideration of a dispute by a person who is independent of the persons involved in the dispute, and
- (iii) be published in such manner as An Bord considers appropriate.]

F4[(3C) An Bord may delegate any of the functions that, in its opinion, can be better or more conveniently performed by the academic council to the academic council.]

Annotations

Amendments:

- F4** Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 119(a), (b), S.I. No. 554 of 2022.

F5[Academic
freedom

5A.—(1) An Bord, in performing its functions, shall—

- (a) have the right and responsibility to preserve and promote the principles of academic freedom in the conduct of its internal and external affairs, and
- (b) without prejudice to the generality of *paragraph (a)*, be entitled to regulate its affairs in accordance with its independent ethos and the principles of academic freedom, and in doing so shall have regard to—
 - (i) the promotion and preservation of equality of opportunity and access to higher education,
 - (ii) resources, wherever originating, that are available to An Bord for the purpose of performing its functions, and
 - (iii) the need to secure the most beneficial, effective and efficient use of those resources.

(2) A member of the academic staff of the College shall not, subject to the provisions of any enactment or rule of law, be disadvantaged, or subject to less favourable treatment by An Bord, arising from his or her questioning and testing received wisdom, putting forward new ideas or stating controversial or unpopular opinions in his or her teaching, research and any other activities either in or outside of the College.]

Annotations**Amendments:**

F5 Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 120, S.I. No. 554 of 2022.

Editorial Notes:

E2 The section heading is taken from the amending section in absence of one included in the amendment.

Members of An
Bord.

6.—(1) The members of An Bord shall be a chairman and such number (not being less than eight nor more than ten) of other members, of whom one shall be the Director, as the Minister may from time to time determine.

- (2) (a) The chairman of An Bord shall be appointed from time to time as occasion requires by the Minister and may, if An Bord so requests and the Minister thinks fit to do so, be removed from the office of chairman by the Minister.
- (b) The chairman of An Bord shall be nominated for appointment as chairman by An Bord from among the members of An Bord other than the Director and the members nominated for appointment to An Bord under subsection (6) or (7).
- (c) The chairman of An Bord shall, unless he sooner dies, resigns the office of chairman or ceases to be chairman under *paragraph (d)* of this subsection, hold office until the expiration of his term of office as a member of An Bord.
- (d) Where the chairman of An Bord ceases during his term of office as chairman to be a member of An Bord, he shall also then cease to be chairman of An Bord.

(3) The chairman of An Bord may resign his office as chairman by letter addressed to the Minister and the resignation shall take effect when the letter is received.

(4) Subject to the provisions of this Act, the chairman of An Bord shall hold office as chairman on such terms as the Minister determines when appointing him.

(5) A member of An Bord shall be appointed by the Minister and may be removed from office by the Minister.

(6) Two members of An Bord shall be members of the academic staff of the College and shall be nominated for appointment to An Bord by the members of the academic staff of the College in such manner as may be approved by the Minister from time to time.

(7) (a) Two members of An Bord shall be students of the College and shall be nominated for appointment to An Bord by the students of the College in such manner as may be approved by the Minister from time to time.

(b) The first appointments under this subsection shall be made as soon as reasonably may be after the establishment day, but An Bord may act before such appointments are made.

(8) A member of An Bord may resign his office as such member by letter addressed to the Minister and the resignation shall take effect when the letter is received.

(9) Subject to the provisions of this Act, the members of An Bord shall hold office on such terms as the Minister determines when appointing them.

(10) (a) A casual vacancy occurring among the members of An Bord shall be filled by appointment by the Minister and, where the vacancy occurs among the members nominated under subsection (6) or (7) of this section, the appointment shall be of a person nominated under the said subsection (6) or (7), as the case may be.

(b) A member of An Bord appointed under this subsection shall hold office for the remainder of his predecessor's term.

Term of office of
members of An
Bord.

7.—F6[(1) The term of office of a member of An Bord, other than the Director, shall be four years.]

(2) The term of office of the member of An Bord who is the director shall continue until, but only until, he ceases to hold office as Director.

(3) A member of An Bord who is nominated for appointment to An Bord under subsection (6) or (7) of section 6 of this Act shall cease to hold office as such member when he ceases to be a member of the academic staff of the College or a student, as the case may be.

F6[(4) A member of An Bord, other than the Director, shall not serve more than two successive terms as such a member and, for that purpose, the remainder of a term under subsection (10) of section 6 shall be regarded as a term.]

Annotations

Amendments:

F6 Substituted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 121(a), (b), S.I. No. 554 of 2022.

Membership of
either House of
Oireachtas by
member of An
Bord.

8.—(1) Where a member of An Bord is nominated either as a candidate for election to either House of the Oireachtas or as a member of Seanad Éireann, he shall thereupon cease to be a member of An Bord.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein shall, while so entitled, be disqualified from becoming a member of An Bord.

Disclosure by member of An Bord of interest in proposed contract or appointment.

9.—(1) A member of An Bord who has—

- (a) any interest in any company or concern with which An Bord proposes to make any contract, or
- (b) any interest in any contract which An Bord proposes to make,

shall disclose to An Bord the fact of the interest and the nature thereof and shall take no part in any deliberation or decision of An Bord relating to the contract, and the disclosure shall be recorded in the minutes of An Bord.

(2) A member of An Bord who is related to a person who is a candidate for appointment by An Bord as an officer or servant of An Bord shall disclose to An Bord the fact of the relationship and the nature thereof and shall, if An Bord so decide, take no part in any deliberation or decision of An Bord relating to the appointment, and the disclosure and decision shall be recorded in the minutes of An Bord.

Allowance for expenses.

10.—A member of An Bord shall be paid, out of the funds at the disposal of An Bord, F7[such remuneration (if any) and such allowances for expenses (if any)] as the Minister, with the approval of the Minister for Finance, may determine.

Annotations

Amendments:

- F7** Substituted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 122, S.I. No. 554 of 2022.

Disqualification of member of An Bord.

11.—A member of An Bord shall be disqualified from holding and shall cease to hold office as such member if he is adjudged bankrupt, or makes a composition or arrangement with creditors, or is sentenced by a court of competent jurisdiction to suffer imprisonment or penal servitude.

Seal of An Bord.

12.—(1) An Bord shall as soon as may be after its establishment provide itself with a seal.

(2) The seal of An Bord shall be authenticated by the signature of the chairman of An Bord or some other member thereof authorised by An Bord to act in that behalf and the signature of an officer of An Bord authorised by An Bord to act in that behalf.

(3) Judicial notice shall be taken of the seal of An Bord and every document purporting to be an instrument made by An Bord and to be sealed with the seal (purporting to be authenticated in accordance with this section) of An Bord shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

Meetings and procedure of An Bord.

13.—(1) An Bord shall hold such and so many meetings as may be necessary for the due fulfilment of its functions F8[and shall hold not less than four meetings in any 12 month period].

(2) The Minister shall fix the date, time and place of the first meeting of An Bord.

(3) The quorum for a meeting of An Bord shall be five.

(4) At a meeting of An Bord—

- (a) The chairman of An Bord shall, if present, be chairman of the meeting;

(b) if and so long as the chairman of An Bord is not present or if the office of chairman is vacant, the members of An Bord who are present shall choose one of their number to be chairman of the meeting.

(5) Every question at a meeting of An Bord shall be determined by a majority of the votes of the members present and voting on the question and in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

(6) An Bord may act notwithstanding one or more vacancies among its members.

(7) Subject to the provisions of this Act, An Bord shall regulate, by standing orders or otherwise, the procedure and business of An Bord.

F8[(8) Subject to the provisions of this Act, An Bord may make, amend or revoke rules (in this Act called "regulations of An Bord") as it thinks fit for the conduct of the procedures and business of An Bord.]

Annotations

Amendments:

F8 Inserted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 123(a), (b), S.I. No. 554 of 2022.

Grants to An
Bord.

14.—(1) There may, subject to such conditions, if any, as the Minister thinks proper, be paid to An Bord in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Finance and after consultation with An Bord in relation to its programme of expenditure for that year, may fix.

(2) An Bord shall submit to the Minister an estimate of its financial requirements for every financial year.

F9[(3) Whenever and for so long as the College is a designated institution of higher education within the meaning of the *Higher Education Authority Act 2022*, this section and *section 16(2)* shall cease to have effect.]

Annotations

Amendments:

F9 Substituted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 145 and sch. 4, S.I. No. 554 of 2022, art. 2(k).

Modifications (not altering text):

C3 Functions transferred and references construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

...

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...
No. 28 of 1971	National College of Art and Design Act 1971	Sections 14 and 15
...

Accounts and audits.

15.—(1) An Bord shall keep, in such form as may be approved by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it and, in particular, shall keep in such form as aforesaid all such special accounts and records as the Minister may from time to time determine.

F10[(2) (a)] Accounts kept in pursuance of this section shall be submitted annually to the Comptroller and Auditor General for audit and, immediately after such audit, a copy of the income and expenditure account and of the balance sheet and of such other, if any, of the accounts as the Minister, after consultation with the Minister for Public Expenditure and Reform, may direct and a copy of the Comptroller and Auditor General's Report on the accounts shall be presented to the Minister and An tÚdarás.

(b) The Minister shall cause copies of the accounts and the Report referred to in *paragraph (a)* to be laid before each House of the Oireachtas.]

Annotations

Amendments:

F10 Substituted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 124, S.I. No. 554 of 2022.

Modifications (not altering text):

C4 Functions transferred and references construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 418 of 2011)*, arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

...

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...
No. 28 of 1971	National College of Art and Design Act 1971	Sections 14 and 15
...

F11[Investigator
and report

15A.—F12[...]]

Annotations

Amendments:

F11 Inserted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 100, S.I. No. 124 of 2018.

F12 Repealed (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 5(1) and sch. 1 part 1, S.I. No. 554 of 2022.

Editorial Notes:

E3 The section heading is taken from the amending section in absence of one included in the amendment.

Annual report
and information
to Minister.

16.—(1) An Bord shall make a report to the Minister annually of its proceedings under this Act during the previous academic year of the College and the Minister shall cause a copy of the report to be laid before each House of the Oireachtas.

(2) An Bord shall supply the Minister with such information regarding the performance of its functions as the Minister may from time to time require.

F13[(3) F14[...]]

F13[(4) F14[...]]

Annotations**Amendments:**

- F13** Inserted (24.04.2018) by *Technological Universities Act 2018 (3/2018)*, s. 101(a), (b), S.I. No. 124 of 2018.
- F14** Repealed (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 5(1) and sch. 1 part 1, S.I. No. 554 of 2022.

Modifications (not altering text):

- C5** Application of subs. (2) restricted by s. 14(3) above, as inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 145 and sch. 4, S.I. No. 554 of 2022.

16.— ...

[(3) Whenever and for so long as the College is a designated institution of higher education within the meaning of the Higher Education Authority Act 2022, this section and *section 16(2)* shall cease to have effect]

F15[Review of
matter and
report by An Bord

16A.—(1) If An Bord has concerns regarding a matter relating to the governance of the College, or the performance of the functions of An Bord, it shall arrange for a review of the matter to be undertaken.

(2) An Bord may appoint such person as it considers appropriate (in this section referred to as a "reviewer") to carry out a review of the matter concerned.

(3) A reviewer may request such information and assistance as he or she may require for the purposes of the review from An Bord, the Director, the Registrar and the officers and servants of An Bord and An Bord, the Director, the Registrar and the officers and servants of An Bord shall comply with any such request.

(4) A reviewer shall review the matter concerned and shall prepare a report of the outcome of the review and any recommendation arising therefrom and shall provide a copy of the report to An Bord, the Director and the Registrar.

(5) An Bord shall, if recommended to do so by the report prepared by a reviewer, take such measures as it considers appropriate with regard to the matter concerned.

(6) An Bord shall retain a copy of a report of the outcome of any review undertaken under *subsection (1)* and shall provide a report to An tÚdarás annually or, more frequently, if so requested by An tÚdarás on the outcome of any review undertaken by An Bord under that subsection, including any measures taken under *subsection (5)*.]

Annotations**Amendments:**

- F15** Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 125, S.I. No. 554 of 2022.

Editorial Notes:

- E4** The section heading is taken from the amending section in absence of one included in the amendment.

The Director and Registrar and officers and servants.

17.—(1) There shall be a director of the College (who shall be known as the Director of an Coláiste Náisiúnta Ealaíne is Deartha and is in this Act referred to as the Director) and a registrar of the College (who shall be known as the Registrar of an Coláiste Náisiúnta Ealaíne is Deartha and is in this Act referred to as the Registrar).

F16[(2) The Director shall be the chief officer of An Bord and the provisions of the Schedule shall apply to the Director.]

F16[(3) The Registrar shall act as registrar and secretary of the College.]

(4) The Director and the Registrar shall be appointed by An Bord and shall hold office subject to such terms and conditions (including conditions of remuneration) as may be determined by An Bord, with the approval of the Minister and with the consent of the Minister for Finance, when appointing them.

(5) Subject to subsection (6) of this section An Bord may appoint such other officers and servants as it shall from time to time think necessary for the due performance of its functions.

(6) The numbers, grades, qualifications, tenure of office and remuneration of the officers of An Bord shall be subject to the approval of the Minister with the consent of the Minister for Finance.

(7) An officer or servant of An Bord shall hold his office or employment on such terms and conditions as An Bord may from time to time, with the approval of the Minister and the consent of the Minister for Finance, determine.

(8) The procedure for the selection of persons for appointment as whole-time officers of An Bord shall be determined by An Bord with the approval of the Minister.

(9) An Bord may remove or suspend from office or employment any of its officers or servants.

Annotations

Amendments:

F16 Substituted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 126(a), (b), S.I. No. 554 of 2022.

Performance of functions of An Bord by officers and servants.

18.—An Bord may perform any of its functions through or by any of its officers and servants duly authorised by An Bord in that behalf.

Membership of either House of Oireachtas by officer or servant of An Bord.

19.—(1) Where a person, who is either an officer or a servant in the employment of An Bord, becomes a member of either House of the Oireachtas—

(a) he shall during the period (in this section referred to as the secondment period) commencing upon his becoming entitled under the Standing Orders of that House to sit therein and ending either when he ceases to be a member of that House, or, if it should sooner happen, upon his resignation or retirement from such employment or upon the termination of such employment by An Bord, stand seconded from such employment;

(b) he shall not be paid by, or entitled to receive from, An Bord any remuneration in respect of the secondment period.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein shall, while so entitled, be disqualified from becoming an officer or servant of An Bord.

Superannuation
of officers and
servants of An
Bord.

20.—(1) As soon as may conveniently be after the establishment day An Bord shall prepare and submit to the Minister a contributory scheme or contributory schemes for the granting of pensions, gratuities and other allowances on retirement to or in respect of its wholetime officers and servants.

(2) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or allowances on retirement are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) An Bord may at any time prepare and submit to the Minister a scheme amending a scheme previously submitted and approved under this section.

(4) A scheme submitted to the Minister under this section shall, if approved of by the Minister with the concurrence of the Minister for Finance, be carried out by An Bord in accordance with its terms.

(5) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance of a scheme under this section, such dispute shall be submitted to the Minister, who shall refer it to the Minister for Finance, whose decision shall be final.

(6) Every scheme submitted and approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

F17[Academic
council of College

20A.—(1) The College shall have an academic council.

(2) Subject to this section, An Bord shall make regulations which shall provide, in relation to the academic council, for—

- (a) the number of members,
- (b) procedures for selection and appointment of members,
- (c) term of office of members,
- (d) eligibility for re-appointment of members, and
- (e) the number of consecutive periods for which members may hold office.

(3) Without prejudice to the generality of *subsection (2)*—

- (a) the majority of members of the academic council shall be members of the academic staff of the College,
 - (b) the regulations of An Bord under *subsection (2)* shall provide for the following persons to be members referred to in *paragraph (a)*—
 - (i) the senior member of staff having responsibility to the Director for each academic discipline, school or department as An Bord determines,
 - (ii) members from what, in the opinion of An Bord, is an appropriate range of levels of other academic staff from an appropriate range of academic disciplines, and
 - (iii) an appropriate number of students,
- and

(c) in making regulations under *subsection (2)*, An Bord shall have regard to the objective that at least 40 per cent of members of the academic council shall be women and at least 40 per cent of them shall be men.

(4) The Director shall be—

(a) an *ex officio* member of the academic council, and

(b) entitled to preside at all meetings of the academic council or a committee of the Council at which he or she is present, but if he or she at any time chooses not to so preside, he or she shall nominate a person to preside in his or her place.

(5) The academic council shall hold such and so many meetings as may be necessary for the performance of its functions under this Act and, subject to any regulations of An Bord as relate to the academic council, may regulate its own procedure.

(6) The academic council may establish such and so many committees as it considers necessary to assist it in the performance of its functions under this Act.

(7) Persons who are members of the academic council or other members of the staff of the College may be members of a committee established under *subsection (6)*.]

Annotations

Amendments:

F17 Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 127, S.I. No. 554 of 2022.

F18 [Functions of
academic council

20B.—(1) Subject to this section, the academic council shall control the academic affairs of the College, including the curriculum of, and instruction and education provided by, the College.

(2) In the performance of its functions, the academic council shall—

(a) have regard to the resources available to the College, and

(b) be subject to review by the College, in a form and at such frequency as may be required by the College.

(3) Without prejudice to the generality of *subsection (1)*, the functions of the academic council shall include—

(a) designing and developing programmes for the College,

(b) making recommendations on programmes for the undertaking of research,

(c) supporting the implementation of the programmes referred to in *paragraphs (a) and (b)*,

(d) making recommendations to the College relating to the selection, admission, retention and exclusion of students,

(e) making recommendations to An Bord regarding the form and content of regulations of the College relating to the academic affairs of the College including—

(i) the assessment of students and determination of the results of that assessment, and

(ii) procedures for appeals by students relating to the results of assessments,

- (f) making recommendations to the College for the awarding of fellowships, scholarships, bursaries, prizes or other awards,
- (g) making general arrangements for academic counselling including tutorials,
- (h) performing any other functions delegated to it by An Bord, and
- (i) implementing any regulations of the College relating to the functions of the academic council.]

Annotations**Amendments:**

- F18** Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 127, S.I. No. 554 of 2022.

F19 [Strategic development plan of College

- 20C.—(1)** (a) The Director shall, as soon as practicable after the coming into operation of section 128 of the Higher Education Authority Act 2022, prepare a plan (in this section called a "strategic development plan") for the period specified in the plan.
- (b) The period specified in the strategic development plan shall be such period as An Bord considers appropriate and directs the Director to specify in the plan, being a period of not less than 3 years and not more than 5 years from the date that the Director prepares the plan under *paragraph (a)*.
 - (c) The Director shall prepare each subsequent strategic development plan not earlier than 6 months, and not later than 3 months, before the expiration of the period specified in the plan.
- (2) The Director shall for the purposes of preparing a strategic development plan under this section consult with—
- (a) the Minister,
 - (b) such other Ministers of the Government as An Bord considers appropriate,
 - (c) An tÚdarás,
 - (d) the students or the student union of the College,
 - (e) the members of the staff of the College,
 - (f) the academic council, and
 - (g) such other bodies or persons as An Bord considers appropriate.
- (3) A strategic development plan shall specify—
- (a) the objectives of the College for the period specified in the plan and the strategies for achieving those objectives,
 - (b) the purposes for which the College proposes to use its resources,
 - (c) how the College shall comply with any requirements imposed on it under the Qualifications and Quality Assurance (Education and Training) Act 2012, and
 - (d) the plans of the College to develop and promote strong social and cultural links, and links supporting creativity, between the College and the local, regional and national community.

(4) The Director, in preparing a strategic development plan under *subsection (1)(c)*, shall have regard to each of the following provided or issued to the College by a relevant designated awarding body within the meaning of the Qualifications and Quality Assurance (Education and Training) Act 2012 during the period of the plan being replaced:

- (a) a report of a review under section 37 of the Qualifications and Quality Assurance (Education and Training) Act 2012;
- (b) a direction under section 38 of that Act.

(5) The Director shall submit the draft strategic development plan to An Bord for approval once it has been prepared.

(6) An Bord, having regard to the resources available to it, may either approve the strategic development plan without modification or, after consultation with the Director, approve the plan with such modifications as it thinks fit.

(7) As soon as practicable after it approves the strategic development plan under *subsection (6)*, An Bord shall provide a copy of the plan to the Minister and An tÚdarás and the Qualifications and Quality Assurance Authority of Ireland and publish it in such manner as An Bord considers appropriate.]

Annotations

Amendments:

F19 Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 128, S.I. No. 554 of 2022.

Editorial Notes:

E5 The section heading is taken from the amending section in absence of one included in the amendment.

F20[Equality
statement of
College

20D.—(1) (a) The Director shall, as soon as practicable after the coming into operation of section 129 of the Higher Education Authority Act 2022, prepare a statement (in this section called an "equality statement") for the period specified in the statement.

(b) The period to which the equality statement relates shall be such period as An Bord considers appropriate and directs the Director to specify in the statement, being a period of not less than 3 years and not more than 5 years from the date that the Director prepares the equality statement under *subsection (1)*.

(c) The Director shall prepare each subsequent equality statement not earlier than 6 months, and not later than 3 months, before the expiration of the period specified in the plan.

(2) The Director shall for the purposes of preparing an equality statement under this section consult with—

- (a) the Minister,
- (b) such other Ministers of the Government as An Bord considers appropriate,
- (c) An tÚdarás,
- (d) the students or the student union of the College,
- (e) the members of the staff of the College,

(f) the academic council, and

(g) such other bodies or persons as An Bord considers appropriate.

(3) The equality statement shall specify—

(a) the policy of the College for enabling access to it, and the education it provides, by economically or socially disadvantaged persons, by persons who have a disability and by persons from sections of society significantly under-represented in the student body, and

(b) the policy of the College relating to equality, including gender equality, in all activities of the College.

(4) The Director shall submit the draft equality statement to An Bord for approval once it has been prepared.

(5) An Bord, having regard to the resources available to it, may either approve the draft equality statement without modification or, after consultation with the Director, approve the statement with such modifications as it thinks fit.

(6) An Bord, in approving the draft equality statement under *subsection (5)*, shall have regard to such policies on the matters referred to in *subsection (3)* as may from time to time be determined by the Minister.

(7) An Bord shall implement the policies set out in the equality statement.]

Annotations

Amendments:

F20 Inserted (10.11.2022) by *Higher Education Authority Act 2022 (31/2022)*, s. 129, S.I. No. 554 of 2022.

Editorial Notes:

E6 The section heading is taken from the amending section in absence of one included in the amendment.

Committees of An Bord.

21.—(1) An Bord may from time to time establish such and so many committees as it thinks proper to perform such (if any) of the functions of An Bord as, in the opinion of An Bord, may be better or more conveniently performed by a committee and are assigned to a committee by An Bord.

(2) An Bord may regulate the procedure of committees established under this section, but subject to any regulation, committees established under this section may regulate their own procedure.

(3) A committee of An Bord shall consist of such number of members appointed by An Bord as it thinks proper and the members shall consist of or include members of An Bord.

(4) The appointment of a person to act as a member of a committee established under this section shall be subject to such conditions (including conditions in relation to the term and tenure of office of the member) as An Bord may think fit to impose when making the appointment.

(5) A member of a committee established under this section may be removed from office at any time by An Bord.

(6) An Bord may at any time dissolve a committee established under this section.

(7) The acts of a committee established under this section shall be subject to confirmation by An Bord.

Buildings and premises.

22.—An Bord may, with the approval of the Minister, by construction or acquisition (including acquisition under a lease or other letting or a licence), provide itself with and equip and maintain such buildings and other premises as it considers necessary or desirable for the performance of its functions.

Acceptance of gifts by An Bord.

23.—(1) An Bord may accept gifts of works of art, money, materials, equipment, land or other property.

(2) An Bord shall not accept a gift if the conditions attached to its acceptance by the donor are inconsistent with the functions of An Bord.

(3) Any funds of An Bord, being a gift or the proceeds of a gift to it, may, subject to any terms or conditions of the gift, be invested by An Bord in any manner in which a trustee is empowered by law to invest trust funds.

Appointment of An Bord to be trustee.

24.—An Bord may accept an appointment to be a trustee of any educational endowment or charity established for purposes connected with the functions of An Bord if the duties of such office are not inconsistent with those functions.

Fees for courses and lectures.

25.—An Bord may, with the consent of the Minister, charge fees of such amounts as it may determine from time to time for admission to courses and lectures, and exhibitions and other functions conducted or arranged by, or held at or by, the College.

Transfer of staff.

26.—(1) Every person who, immediately before the establishment day, was a permanent, whole-time member of the academic or other staff of the College shall, on the establishment day become and be a permanent, whole-time member of the academic or other staff of the College as the case may be, in the employment of An Bord on such terms and conditions as An Bord may from time to time determine, being terms and conditions that, in the opinion of the Minister, are not less favourable to the person than those that applied in relation to his employment with the College immediately before such day.

(2) Every person, other than a person referred to in subsection (1) of this section, who, immediately before the establishment day, was a member of the academic or other staff of the College and who either

(a) was appointed as such on the recommendation of the Civil Service Commissioners or

(b) was required to work for not less than 18 hours per week and had been a member of such academic or other staff for the five years immediately preceding such day,

shall become and be a member of the academic or other staff of the College, as the case may be, in the employment of An Bord on such terms and conditions as An Bord may from time to time determine, being terms and conditions that, in the opinion of the Minister, are not less favourable to the person than those that applied in relation to his employment with the College immediately before such day.

Transfer of property and liabilities.

27.—(1) All property (real or personal), other than the buildings and premises at Kildare Street, Dublin, used by the College, and all rights held or enjoyed immediately before the establishment day by the Minister, in connection with the College, shall, on the establishment day, become and be transferred to An Bord and accordingly, without any further conveyance, transfer or assignment—

- (a) the said property shall, on the establishment day, vest in An Bord,
- (b) the said rights shall, as on and from the establishment day, be enjoyed by An Bord,
- (c) the said liabilities shall, as on and from the establishment day, be the liabilities of An Bord.

(2) All moneys, stocks, shares and securities transferred to An Bord by this section which, on the establishment day, are standing in the books of any corporation or company in the name of the Minister shall, upon the request of An Bord, be transferred into its name.

(3) Every debt and other liability (including unliquidated liabilities arising from torts or breaches of contract) which, immediately before the establishment day is owing and unpaid or has been incurred and is undischarged by the Minister or the Commissioners and is so owing or has been incurred in relation to the College shall, on the establishment day, become and be the debt or liability of An Bord and shall be paid or discharged by and may be recovered from and enforced against An Bord accordingly.

Preservation of contracts and continuance of legal proceedings.

28.—(1) Every contract which was entered into in relation to the College and is in force immediately before the establishment day between the Minister or the Commissioners and any person shall continue in force on and after the establishment day, but shall be construed and have effect as if An Bord were substituted therein for the Minister or the Commissioners (as the case may be), and every such contract shall be enforceable by or against An Bord accordingly.

(2) Where, immediately before the establishment day, any legal proceedings are pending to which the Minister is a party and the proceedings have reference to the College, the name of An Bord shall be substituted in the proceedings for that of the Minister, and the proceedings shall not abate by reason of such substitution.

Exemption from stamp duty.

29.—Stamp duty shall not be charged on any conveyance or other instrument executed for the purpose of vesting property or any interest in property in An Bord.

Amendment of Ministers and Secretaries Act, 1924.

30.—The [Ministers and Secretaries Act, 1924](#), is hereby amended by the deletion in the Fourth Part of the Schedule of “The Metropolitan School of Art”.

Expenses.

31.—Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title.

32.—This Act may be cited as the National College of Art and Design Act, 1971.

F21[SCHEDULE

Section 17

DIRECTOR

1. The Director shall carry on and manage, and control generally, the administration and business of the College and perform such other functions (if any) as may be determined by An Bord, and for those purposes shall have such powers as are necessary or expedient.

2. The Director shall perform his or her functions subject to such policies as may be determined from time to time by An Bord and shall be accountable to An Bord for the efficient and effective management of the College and for the due performance of his or her functions.

3. The Director may make proposals to An Bord on any matter relating to its functions.

4. The Director shall provide An Bord with any information (including financial information) in relation to the performance of his or her functions as An Bord may request.

5. An Bord may designate an officer or servant of An Bord to perform the functions of the Director in the absence of the Director or where the office of Director is vacant, and a member so designated shall in such absence or upon such office being vacant, perform those functions.

6. (1) The Director may, with the consent of An Bord, delegate in writing any of his or her functions to a specified officer or servant of An Bord, and that officer or servant shall be accountable to the Director for the performance of the functions so delegated.

(2) The Director shall be accountable to An Bord for the performance of functions delegated by him or her in accordance with *subparagraph (1)*.

(3) The Director may, with the consent of An Bord in writing, revoke a delegation made in accordance with this paragraph.

(4) In this paragraph, "functions" does not include a function delegated by An Bord to the Director subject to a condition that the function shall not be delegated by the Director to anyone else.

7. The Director shall not hold any other office or position without the consent of An Bord.

8. Unless he or she resigns, retires or is removed from office, the Director shall hold office for such period as An Bord, with the consent of the Minister, determines but the period shall not exceed ten years from the date of the Director's appointment.

9. (1) The Director shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the "Committee"), give evidence to that Committee in relation to—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that An Bord is required by this Act to prepare,

(b) the economy and efficiency of the College in the use of its resources,

(c) the systems, procedures and practices employed by An Bord for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the College referred to in a special report of the Comptroller and Auditor General under section 11 (2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *clause (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this paragraph, the Director shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

10. (1) In this paragraph, "Committee" means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a sub-committee of such Committee.

(2) Subject to *subparagraph (3)*, the Director shall, at the request in writing of a Committee, attend before it to give account for the general administration of the College.

(3) The Director shall not be required to give account before a Committee for any matter that is or has been or may be the subject of proceedings before a court or tribunal of inquiry in the State.

(4) Where the Director is of opinion that a matter in respect of which he or she is requested to give account before a Committee is a matter to which *subparagraph (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and unless the Director does so at a time when he or she is before the Committee, he or she shall do so in writing.

(5) Where the Director has informed a Committee of his or her opinion in accordance with *subparagraph (4)* and the Committee does not withdraw the request referred to in *subparagraph (2)* in so far as it relates to a matter the subject of that opinion—

(a) the Director may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question of whether the matter is one to which *subparagraph (3)* applies, or

(b) the Chairperson of the Committee may, on behalf of the Committee, make an application,

and the High Court shall determine the matter.

(6) Pending the determination of an application under *subparagraph (5)*, the Director shall not attend before the Committee to give account for the matter the subject of the application.

(7) If the High Court determines that the matter concerned is one to which *subparagraph (3)* applies, the Committee shall withdraw the request referred to in *subparagraph (2)*, but if the High Court determines that *subparagraph (3)* does not apply, the Director shall attend before the Committee to give account for the matter.

(8) In the performance of his or her duties under this paragraph, the Director shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government, or the merits of the objectives of such a policy.]

Annotations

Amendments:

F21 Inserted (10.11.2022) by *Higher Education Authority Act 2022* (31/2022), s. 130, S.I. No. 554 of 2022.



Number 28 of 1971

NATIONAL COLLEGE OF ART AND DESIGN ACT 1971

REVISED

Updated to 10 November 2022

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Higher Education Authority Act 2022 (31/2022)*
- *Technological Universities Act 2018 (3/2018)*

All Acts up to and including *Consumer Rights Act 2022 (37/2022)*, enacted 7 November 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Further and Higher Education, Research, Innovation and Science (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 451 of 2020)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *National College of Art and Design Act, 1971 (Establishment Day) Order 1972* (S.I. No. 108 of 1972)

All statutory instruments up to and including *Higher Education Authority Act 2022 (Commencement) Order 2022* (S.I. No. 554 of 2022), made 8 November 2022, were considered in the preparation of this revision.