Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.



Number 31 *of* 2022

HIGHER EDUCATION AUTHORITY ACT 2022

REVISED

Updated to 1 August 2024

This Revised Act is an administrative consolidation of the *Higher Education Authority Act 2022*. 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 *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024), enacted 23 July 2024, and all statutory instruments up to and including the *Research and Innovation Act 2024 (Commencement) Order 2024* (S.I. No. 373 of 2024), made 25 July 2024, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

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REVISED

Updated to 1 August 2024

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HIGHER EDUCATION AUTHORITY ACT 2022

REVISED

Updated to 1 August 2024

An Act to provide for changes to the functions and governance of An tÚdarás um Ard-Oideachas and the oversight by it of higher education providers which are designated institutions of higher education under this Act; to provide for the preparation, review and amendment of a strategy for tertiary education; to provide for better engagement with students and equity of access to, and participation and the promotion of success in, higher education and lifelong and flexible learning; to provide for the designation of certain higher education providers as designated institutions of higher education and, if appropriate, the removal of such designation in certain circumstances; to amend the provisions regarding the composition of the governing authorities or governing bodies of certain designated institutions of higher education, including the Supplemental Letters Patent of 1911 in respect of Trinity College, Dublin; for those purposes, to repeal and replace the Higher Education Authority Act 1971 and to amend the Universities Act 1997, the Technological Universities Act 2018, the Regional Technical Colleges Act 1992, the Regional Technical Colleges (Amendment) Act 1994, the National College of Art and Design Act 1971, the Housing Finance Agency Act 1981, the Student Support Act 2011, the Industrial Training Act 1967, the Social Welfare Consolidation Act 2005, the Qualifications and Quality Assurance (Education and Training) Act 2012 and the National Treasury Management Agency (Amendment) Act 2014; and to provide for related matters.

[12*th October*, 2022]

Be it enacted by the Oireachtas as follows:

Annotations

Editorial Notes:

E1 References to "Science Foundation Ireland" construed as "Taighde Éireann" (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 61, S.I. No. 373 of 2024.

PART 1

Preliminary and general

Short title and commencement

1. (1) This Act may be cited as the Higher Education Authority Act 2022.

(2) This Act, other than *sections 85*, *86*, *87*, *95*, *97*, *98*, *99*, *100*, *101*, *102*, *103* and *105*, shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(3) An order under *subsection (2)* may, in respect of the repeal of the enactments specified in *Schedule 1* effected by *section 5(1)*, appoint different days for the repeal of different enactments or different provisions of them.

Annotations

Editorial Notes:

E2 Power pursuant to subs. (2) exercised (10.11.2022) by *Higher Education Authority Act 2022 (Commencement) Order 2022* (S.I. No. 554 of 2022).

2. The 10th day of November 2022 is appointed as the day on which the following provisions of the Higher Education Authority Act 2022 shall come into operation:

(a) sections 1 to 52;

(b) section 53, other than subsection (1)(b);

(c) section 60;

(d) sections 64 to 68;

(e) section 69 insofar as it relates to notices of appeal under section 42(6) or 65(4);

(f) sections 70 to 84;

(g) sections 88 to 94;

(h) section 96;

(i) section 104;

(j) sections 106 to 140;

(k) sections 142 to 145.

Interpretation

2. (1) In this Act—

"Act of 1971" means the National College of Art and Design Act 1971;

"Act of 1992" means the Regional Technical Colleges Act 1992;

"Act of 1997" means the Universities Act 1997;

"Act of 2011" means the Student Support Act 2011;

"Act of 2012" means the Qualifications and Quality Assurance (Education and Training) Act 2012;

"Act of 2018" means the Technological Universities Act 2018;

"An tSeirbhís" means An tSeirbhís Oideachais Leanúnaigh agus Scileanna;

"An tÚdarás" means An tÚdarás um Ard-Oideachas established by the Higher Education Authority Act 1971 and continued in being by *section 7*;

"appeals board" has the meaning assigned to it by *section 69(1)*;

"Board" means the Board of An tÚdarás;

"bodies seeking funding" has the meaning assigned to it by *section 37(1)*;

"Chief Executive Officer", in relation to An tÚdarás, has the meaning assigned to it by *section 25*;

"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[1] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

"designated institution of higher education" has the meaning assigned to it by *section 53(1)*;

"designation order" has the meaning assigned to it by *section 54(1)*;

"education and training board" has the meaning assigned to it by the Education and Training Boards Act 2013;

"funded body" has the meaning assigned to it by *section 37(1)*;

"funding framework" has the meaning assigned to it by *section 37(2)*;

"Gaeltacht Language Planning Area" has the meaning it has in Part 2 of the Gaeltacht Act 2012;

"Gaeltacht Service Town" has the meaning it has in Part 2 of the Gaeltacht Act 2012;

"governing body", in relation to a designated institution of higher education or a funded body, means the governing body, authority or board (by whatever name called) that manages and controls the designated institution of higher education or funded body, as the case may be;

"higher education provider" means a person or institution which provides at least one programme of education and training leading to the award of a degree or other qualification which is at least at bachelor degree level and is included within the National Framework of Qualifications;

"information" includes data;

"Irish Language Network" has the meaning it has in Part 2 of the Gaeltacht Act 2012;

"Minister" means the Minister for Further and Higher Education, Research, Innovation and Science;

"non-personal data" means data other than personal data;

"personal data" has the meaning it has in the Data Protection Regulation;

"prescribed" means prescribed by regulations made by the Minister under *section 3*;

"priority groups", in relation to students in higher education or, as may be appropriate, persons who are seeking to become students in higher education, includes persons who are economically or socially disadvantaged, persons who have a disability or persons from sections of society that are under-represented in the student body in higher education;

[1] OJ No. L119,4. 5.2016, p.1

"processing", in relation to personal data, has the meaning it has in the Data Protection Regulation;

"representatives of students" shall include officers of a national student union in their capacity as such officers;

"research" means creative and systematic work undertaken in order to increase the stock of knowledge (including knowledge of humankind, culture and society) and to devise new applications of available knowledge;

"revocation order" has the meaning assigned to it by *section 59(1)*;

"special categories of personal data" has the meaning it has in the Data Protection Act 2018;

"student" means a person registered as a student by a higher education provider with that provider;

"student union" means a student union or other student representative body recognised by a higher education provider or by the Minister;

"tertiary education" means further education and training and higher education and research.

(2) In this Act, references to higher education shall include references to research undertaken in the higher education system.

(3) In this Act, references to environmental development and sustainability shall be construed as references to development and actions that meet the needs of the present without compromising the ability of future generations to meet their own needs and, without prejudice to the generality of the foregoing, including actions in respect of social, economic, cultural and environmental development, climate and biodiversity.

Regulations and orders

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) An order (other than an order under *section 1(2)*) and regulations made under this Act shall be laid before each House of the Oireachtas as soon as may be after the order or regulation is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation, as the case may be, shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Annotations

Editorial Notes:

E3 Power pursuant to section exercised (5.04.2024) by *Higher Education Authority Act 2022 (Appeals) Regulations 2024* (S.I. No. 132 of 2024), in effect as per reg. 1(2).

Expenses

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Repeals, revocations and savers

5. (1) The enactments specified in *Part 1* of *Schedule 1* are repealed to the extent specified in *column (3)* of that Part of that Schedule and the enactments specified in *Part 2* of that Schedule are revoked to the extent specified in *column (3)* of that Part of that Schedule.

(2) Notwithstanding the repeal of subsections (2) to (4) of section 4 of the Act of 1997, sections 22 and 23 of the Act of 1997 shall not apply to Trinity College (within the meaning of that Act).

(3) A superannuation scheme made under section 15 of the Higher Education Authority Act 1971 that was in force immediately before the coming into operation of *subsection (1)* insofar as that subsection relates to the repeal of that section of that Act shall continue in force on and after that coming into operation as if the scheme had been made under *section 31* and *Schedule 3*.

Offences

6. (1) A person guilty of an offence under this Act shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both.

(2) Summary proceedings for an offence under this Act may be brought and prosecuted by An tÚdarás, including where such an offence is committed by a member of the Board.

PART 2

An tÚdarás um Ard-Oideachas

Chapter 1

Continuance in being and functions of An tÚdarás

An tÚdarás um Ard-Oideachas

7. (1) Notwithstanding the repeal of the Higher Education Authority Act 1971 by *section 5(1)*—

(a) the body known as An tÚdarás um Ard-Oideachas (in this Act referred to as "An tÚdarás") shall continue in being in accordance with the provisions of this Act, and

(b) anything commenced but not completed by that body before that repeal may be carried on and completed by An tÚdarás after that repeal as if that Act had not been repealed.

(2) An tÚdarás is a body corporate with perpetual succession and an official seal and shall have the power to sue, and may be sued, in its corporate name and may, with the consent of the Minister and the Minister for Public

Expenditure and Reform, acquire, hold and dispose of land, an interest in land or any other property.

(3) The seal of An tÚdarás shall be authenticated by—

(a) the signatures of 2 members of the Board, or

(b) the signatures of a member of the Board and a member of the staff of An tÚdarás authorised by the Board to act in that behalf.

(4) Judicial notice shall be taken of the seal of An tÚdarás and, accordingly, any document—

(a) purporting to be an instrument made by An tÚdarás, and

(b) purporting to be sealed with the seal of An tÚdarás authenticated in accordance with *subsection (3)*,

shall, unless the contrary is shown, be received in evidence and taken to be such an instrument without further proof.

Objects of An tÚdarás

8. (1) An tÚdarás shall have regard to the following objects in performing its functions:

(a) to promote the attainment and maintenance of excellence in teaching, learning and research in a high quality higher education system;

(b) to support designated institutions of higher education in contributing to social, economic, cultural and environmental development and sustainability through leadership, innovation and agility and, without prejudice to the generality of the foregoing, such support shall include the promotion and use by those institutions of the Irish language;

(c) to hold designated institutions of higher education to account for their performance and for securing value for money in the use of funding provided under this Act;

(d) to advance equality of opportunity, diversity and inclusion in higher education;

(e) to strengthen engagement with the education system and society generally;

(f) to respect the academic freedom of higher education providers and academic staff in those providers;

(g) to acknowledge the responsibility of designated institutions of higher education for the performance and governance of those institutions.

(2) In furthering these objects, An tÚdarás shall provide that, as far as practicable and having regard to resources available, the needs of the student in higher education are a primary consideration.

Functions of An tÚdarás

9. (1) The functions of An tÚdarás shall be to—

(a) promote the objects of An tÚdarás,

(b) promote and support student engagement and student success in higher education and the attainment by students of a high quality educational experience in higher education,

(c) secure and evidence value for money in the expenditure by An tÚdarás of moneys provided to it under *section 19*,

(d) plan for higher education provision and make recommendations to the Minister on the overall provision of student places,

(e) F1**[**in co-operation with Taighde Éireann,**]** plan for research in the higher education system and make recommendations to the Minister on the overall higher education research system,

(f) support the provision of a range of programmes of higher education and training aimed at meeting the educational and skills needs of individuals, business, enterprise, the professions, the community, local interests and other stakeholders locally, regionally and nationally and, without prejudice to the generality of the foregoing, including the educational and skills needs of persons in Gaeltacht Language Planning Areas, Gaeltacht Service Towns and Irish Language Networks, and outside of such Areas, Towns and Networks, with regard to the promotion and use of the Irish language,

(g) facilitate co-operation at a national, regional and local level between designated institutions of higher education and other education providers,

(h) co-operate with designated institutions of higher education, the Qualifications and Quality Assurance Authority of Ireland, An tSeirbhís, F2**[**Taighde Éireann**]**, Skillnet Ireland, Ministers of the Government and other bodies, as may be appropriate, in relation to the development and provision of higher education and training,

(i) promote, support and fund excellent research in the higher education system in all disciplines in accordance with national research policy and in co-operation, as may be appropriate, with Ministers of the Government, F2**[**Taighde Éireann and other Government agencies**]** and such other bodies as An tÚdarás considers appropriate,

(j) provide capital funding and current funding to bodies seeking funding, monitor expenditure by funded bodies and to control or seek a refund of funding in certain circumstances,

(k) measure and assess the performance of designated institutions of higher education with a view to strengthening the performance of the higher education system and the designated institutions of higher education and to ensure their accountability,

(l) support the effective governance of designated institutions of higher education by overseeing appropriate governance frameworks to underpin public confidence in the higher education system and to provide value for money for funding provided and ensure accountability and compliance with those governance frameworks,

(m) assess the performance of funded bodies with regard to securing value for money in the expenditure of funding provided to them by An tÚdarás under this Act,

(n) support equality, diversity and inclusion in higher education, including the participation and success of students in priority groups, or persons in such groups seeking to be students, in higher education,

(o) advise the Minister in relation to national policy on higher education in accordance with *section 14*, including in relation to the funding required for higher education,

(p) co-operate with An tSeirbhís with regard to the establishment and operation of an Office called the National Apprenticeship Office whose functions shall be to manage, oversee and develop a system of apprenticeships,

(q) promote co-operation and collaboration with regard to higher education (including with regard to the provision of student places and the enrolment of students) with authorities having responsibility for higher education in Northern Ireland, including the promotion of co-operation between designated institutions of higher education and institutions of higher education in Northern Ireland,

(r) without prejudice to *paragraph (q)*, promote co-operation and collaboration with regard to higher education (including the provision of support and funding for projects and initiatives) with authorities having responsibility for higher education in places outside the State, including the promotion of such co-operation by designated institutions of higher education with institutions of higher education in places outside the State,

(s) provide a recommendation to the Minister in relation to the proposed acquisition or disposal of land, an interest in land or any other property by a designated institution of higher education, where the consent of the Minister is required for such a transaction,

(t) research any matters relating to the objects and functions of An tÚdarás, and

(u) in compliance with *Part 6*, collect statistical information and maintain an evidence base in order to provide high quality evidence-based policy advice.

(2) An tÚdarás shall have all such powers as are necessary or expedient for the performance by it of its functions.

(3) An tÚdarás may perform any of its functions through or by any member of the staff of An tÚdarás authorised in that behalf by An tÚdarás.

(4) An tÚdarás may perform any of its functions through or by any other persons authorised in that behalf by An tÚdarás.

Annotations

Amendments:

F1 Inserted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(a)(i), S.I. No. 373 of 2024.

F2 Substituted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(a)(ii), (iii), S.I. No. 373 of 2024.

Consultants and advisers

10. (1) An tÚdarás may appoint such consultants and advisers as it considers necessary for the performance of its functions.

(2) An tÚdarás shall comply with any directions concerning the engagement of consultants and advisers which may from time to time be given to it by the Minister, given with the consent of the Minister for Public Expenditure and Reform.

(3) Any remuneration due to a consultant or adviser shall, having regard to guidelines issued from time to time by the Minister or the Minister for Public Expenditure and Reform, be paid out of moneys at the disposal of An tÚdarás.

Chapter 2

Ministerial powers and information

Power of Minister to give directions to An tÚdarás

11. (1) The Minister may give a direction in writing to An tÚdarás for any purpose relating to this Act and concerning—

(a) any matter or thing referred to in this Act or any other enactment, and

(b) the implementation of any policy or objective of the Minister or the Government.

(2) An tÚdarás shall comply with a direction given by the Minister under this section.

(3) An tÚdarás shall, within the time specified by the Minister in a direction, inform the Minister of the measures taken by An tÚdarás to comply with the direction.

(4) The Minister may, by direction, in writing, amend or revoke a direction under this section (including a direction under this subsection).

Power of Minister to issue guidelines to An tÚdarás

12. (1) The Minister may issue guidelines in writing to An tÚdarás for the purposes of this Act.

(2) Guidelines issued under *subsection (1)* may relate to—

(a) codes of practice for governance or other such codes that may be issued from time to time by a Minister of the Government,

(b) policy guidance or changes in policy, and

(c) changes in prioritisation of commitments in the corporate plan of An tÚdarás under *section 20*.

(3) In performing its functions under this Act, An tÚdarás shall have regard to any guidelines issued by the Minister under this section.

(4) The Minister may publish guidelines issued by him or her under *subsection (1)* in such manner as he or she considers appropriate.

Reports and information to Minister

13. An tÚdarás shall provide such reports and information to the Minister in such form and manner and at such times as the Minister may specify on any matter related to the performance of the functions of An tÚdarás.

Advice to Minister

14. (1) An tÚdarás may provide advice to the Minister on any matter related to the performance of its functions.

(2) An tÚdarás shall provide advice, as requested by the Minister, in such form and manner and at such times as the Minister may specify on any matter related to the performance of its functions.

Chapter 3

Board of An tÚdarás

Board of An tÚdarás

15. (1) An tÚdará shall have a Board (in this Act referred to as the "Board") established under this Act to perform the functions of An tÚdará.

(2) *Schedule 2* shall apply to the Board.

(3) The Board shall—

(a) oversee the preparation and adoption of the corporate plan of An tÚdará under *section 20* and the annual plan of An tÚdará under *section 21* and their submission to the Minister,

(b) satisfy itself that appropriate systems, procedures and practices are in place—

(i) to achieve the objects of An tÚdará,

(ii) for the internal performance management and accountability of An tÚdará in respect of—

(I) the performance of its functions,

(II) the achievement of the objectives in the corporate plan under *section 20*, and

(III) the achievement of the performance targets in the annual plan under *section 21*,

and

(iii) in order to enable compliance with the policies (whether contained in guidelines, codes or other documents, or any combination of them) of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of An tÚdará,

and

(c) establish and implement arrangements for the management of the performance of the Chief Executive Officer.

(4) The Board is accountable to the Minister for the performance of its functions under *subsections (1)* and *(3)*.

(5) The Board may delegate in writing to the Chief Executive Officer any of the functions of An tÚdará or the Board other than the functions referred to in *subsection (3)*.

(6) If a function of An tÚdará or the Board is delegated to the Chief Executive Officer under *subsection (5)*, the delegation remains in force until the Board revokes the delegation by notice in writing given to that Officer.

(7) The Board shall notify the Minister in writing of any delegation made under *subsection (5)* and of any revocation of such delegation under *subsection (6)*.

Membership of Board of An tÚdarás

16. (1) The Board shall consist of the following members:

(a) a chairperson;

(b) 11 ordinary members.

(2) (a) Subject to *paragraph (b)*, the chairperson and the ordinary members of the Board shall be appointed by the Minister from among persons who, in the opinion of the Minister, have sufficient experience and expertise relating to—

(i) matters connected with the functions of An tÚdarás to enable them to make a substantial contribution to the effective and efficient performance of those functions, or

(ii) matters connected to education, teaching and learning, research, the promotion and use of the Irish language, organisational and financial governance, management, public administration or risk management.

(b) Not less than one of the persons appointed under *paragraph (a)* shall be a student or a full-time officer of a national student union, nominated by the national student union.

(3) The Minister, when making appointments to the Board, shall have regard to the objective that not less than 40 per cent of the members of the Board shall be women and not less than 40 per cent of them shall be men.

(4) The chairperson shall hold office for such period, not exceeding 4 years, from the date of his or her appointment as the Minister shall determine.

(5) Subject to *subsection (6)*, an ordinary member shall hold office for such period, not exceeding 4 years, from the date of his or her appointment as the Minister shall determine.

(6) Of the ordinary members of the Board first constituted under this section—

(a) 6 members shall hold office for a period of not more than 2 years from the date of their appointment as such members, and

(b) 5 members shall hold office for a period of not more than 4 years from the date of their appointment as such members.

(7) Subject to *subsection (8)*, a member of the Board whose term of office expires by the effluxion of time shall be eligible for re-appointment to the Board.

(8) A person who is re-appointed to be a member of the Board in accordance with *subsection (7)* shall not hold office for more than two consecutive terms and, in any event, may not serve as such a member for a period of more than 8 years.

(9) Subject to *subsection (10)*, the persons who held office as members of An tÚdarás immediately before the commencement of *section 7* shall cease to hold office upon such commencement but shall be eligible to be appointed as members of the Board for a term not exceeding 4 years.

(10) A person referred to in *subsection (9)* who is appointed as a member of the Board shall not hold office as such a member for more than one term and, in any event, may not serve as such a member and as a member of An tÚdarás for a cumulative period of more than 8 years.

Chapter 4

Administrative co-operation with other bodies

Administrative co-operation with other bodies

17. (1) An tÚdarás shall, in so far as it is consistent with the proper performance of its functions, endeavour to secure administrative co-operation between An tÚdarás and other bodies to which this section applies and, for that purpose, may enter into one or more than one agreement or arrangement (whether in the form of a memorandum of understanding or otherwise) from time to time with one or more of those bodies for the purposes of—

(a) facilitating administrative co-operation between An tÚdarás and those bodies in the performance of their respective functions in so far as they relate to the operation and governance of designated institutions of higher education,

(b) ensuring, as far as practicable, consistency between decisions made or measures taken by An tÚdarás and those bodies in so far as any part of those decisions or measures consists of, or relates to, a determination of any matter concerning the operation and governance of designated institutions of higher education, or

(c) avoiding duplication of activities by An tÚdarás and a body to which this section applies.

(2) The parties to an agreement or arrangement under this section may vary the terms of the agreement or arrangement.

(3) An agreement or arrangement under this section, or any variation of such an agreement or arrangement, shall be in writing.

(4) An agreement or arrangement under this section shall not operate to bind An tÚdarás or a body to which this section applies.

(5) An tÚdarás shall provide the Minister and any relevant Minister in relation to a body to which this section applies with a copy of each agreement or arrangement under this section and any variation thereof.

(6) (a) An agreement or arrangement under this section shall not operate to require An tÚdarás to provide information to any other body to which this section applies if the disclosure of that information by An tÚdarás is not permitted by this Act or is prohibited by law.

(b) An agreement or arrangement under this section shall not operate to require a body to which this section applies to provide information to An tÚdarás if the disclosure of that information by that body is not permitted by this Act or is prohibited by law.

(7) In this section—

(a) "relevant Minister", in relation to a body to which this section applies, means any Minister of the Government who performs functions in relation to the body;

(b) a reference to a body to which this section applies means—

(i) the Qualifications and Quality Assurance Authority of Ireland,

(ii) An tSeirbhís,

(iii) F3**[**Taighde Éireann,**]**

(iv) a body established by or under an enactment in which functions are vested by statute or otherwise relating to purposes connected with the provision of higher education by designated institutions of higher education and that is prescribed by order of the Minister for the purposes of this section.

(8) The Minister may, by order, prescribe a body referred to in *subsection (7)(b)(iv)* for the purposes of this section.

Annotations

Amendments:

F3 Substituted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(b), S.I. No. 373 of 2024.

Co-operation between An tÚdarás and An tSeirbhís regarding apprenticeships

18. (1) An tÚdarás may enter into an agreement under *section 17* with An tSeirbhís in relation to the delivery of a system of apprenticeships, having regard to their respective statutory functions.

(2) An agreement under *subsection (1)* shall provide for the establishment, on an administrative basis, of an Office to be called the National Apprenticeship Office, whose functions shall be to manage, oversee and develop a system of apprenticeships.

(3) The Office referred to in *subsection (2)* shall have regard to the policies of the Minister in relation to apprenticeships in the performance of the functions assigned to it.

(4) The Minister may, by regulations, prescribe such matters regarding the structure and operation of the Office referred to in *subsection (2)* as he or she considers necessary or expedient for the proper functioning of that Office.

Chapter 5

Funding and accountability of An tÚdarás

Advances to An tÚdarás

19. In each financial year, the Minister shall advance to An tÚdarás out of moneys provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by An tÚdarás in the performance of its functions.

Corporate plan of An tÚdarás

20. (1) An tÚdarás shall prepare and adopt a corporate plan (in this section referred to as the "corporate plan") to be submitted to the Minister for approval, with or without amendment, for each ensuing 3-year period.

(2) A corporate plan shall—

(a) include the objectives, outputs and related strategies for higher education of An tÚdarás,

(b) include a review and evaluation of the work of An tÚdarás in the performance of its functions in the previous 3 years,

(c) be prepared in a form and manner in accordance with any directions given from time to time by the Minister,

(d) be prepared and submitted to the Minister—

(i) in respect of the first corporate plan, not later than 6 months after the commencement of *section 7*, and

(ii) in respect of each subsequent corporate plan, not later than 3 months after the expiration of the previous corporate plan,

(e) be in accordance with the strategy for tertiary education under *section 33* and the performance framework under *section 35*, and

(f) accord with the guidelines, policies and objectives of the Minister and the Government as they relate to the functions of An tÚdarás.

(3) When preparing the corporate plan, An tÚdarás—

(a) shall consult with the Minister F4**[**and Taighde Éireann**]**, and

(b) may consult with such other persons or bodies as it considers appropriate.

(4) Within 30 days of receiving a proposed corporate plan, the Minister shall—

(a) approve the proposed plan,

(b) give directions regarding amendments to the proposed plan, or

(c) refuse to approve the proposed plan if it is not amended in accordance with any directions that may have been given by the Minister to An tÚdarás.

(5) An approved corporate plan may be amended by—

(a) the Minister at any time, or

(b) An tÚdarás, where—

(i) An tÚdarás submits a proposed amendment to the Minister for approval, and

(ii) the amendment is approved by the Minister.

(6) Nothing in a corporate plan shall limit An tÚdarás in the performance of its functions.

(7) As soon as practicable after approving a corporate plan, the Minister shall cause a copy of the corporate plan to be laid before each House of the Oireachtas.

(8) An tÚdarás shall ensure that, as soon as practicable after copies of an approved corporate plan are laid before the Houses of the Oireachtas, the plan is published in such manner as the Minister may specify.

Annotations

Amendments:

F4 Inserted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(c), S.I. No. 373 of 2024.

Annual plan of An tÚdarás

21. (1) An tÚdarás shall prepare and submit to the Minister, not later than 28 days following notification of the amount to be advanced to An tÚdarás by the Minister under *section 19* for the next financial year, an annual plan (in this section referred to as the "annual plan") relating to the performance of its functions.

(2) An annual plan shall—

(a) outline the proposed activities for An tÚdarás for the period to which the annual plan relates and the performance targets relating to those activities,

(b) specify the proposed allocation of the total resources (both financial and persons) of An tÚdarás for the period to which the annual plan relates,

(c) specify the monitoring arrangements for the performance targets,

(d) specify the reporting arrangements to the Minister,

(e) specify how An tÚdarás shall have regard to its objects under *section 8*,

(f) contain any other information specified by the Minister, and

(g) accord with the guidelines, policies and objectives of the Minister and the Government as they relate to the functions of An tÚdarás.

(3) In preparing the annual plan, An tÚdarás shall have regard to the corporate plan under *section 20* and the strategy for tertiary education under *section 33* and any directions given or guidelines issued by the Minister under *subsection (4)*.

F5**[**(3A) An tÚdarás shall, in preparing the annual plan, consult with Taighde Éireann.**]**

(4) The Minister may, from time to time, give directions or issue guidelines to An tÚdarás concerning the preparation of the annual plan.

(5) An tÚdarás shall implement the annual plan prepared in accordance with *subsection (2)* unless the Minister, within 30 days of the submission to him or her of the annual plan, directs An tÚdarás in writing to amend the annual plan if, in the opinion of the Minister, the annual plan—

(a) does not contain the information required under *subsection (2)*,

(b) does not comply in some other respect with *subsection (2)*, or

(c) has been prepared without sufficient regard to the matters specified in *subsection (2)* or *(3)*.

(6) When giving a direction to An tÚdarás under *subsection (5)*, the Minister shall give his or her reasons in writing for the direction.

(7) An tÚdarás shall comply with a direction under *subsection (5)* within the period, if any, specified in the direction.

(8) An tÚdarás may amend an annual plan, in accordance with a direction under *subsection (5)* and, where it does so, *subsections (2)* to *(7)* shall apply, with any necessary modifications, to the preparation of the amended annual plan as they apply to an annual plan prepared under *subsection (1)*.

(9) An tÚdarás shall—

(a) inform the Minister of the measures taken with regard to the activities and the performance targets outlined in the annual plan and of the outcome of those measures, and

(b) provide that information at intervals specified by the Minister or, if no such intervals are specified, in the annual report under *section 23*.

Annotations

Amendments:

F5 Inserted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(d), S.I. No. 373 of 2024.

Accounts of An tÚdarás

22. (1) An tÚdarás shall keep, in such form as may be approved by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts and records of all moneys received or expended by it.

(2) An tÚdarás shall each year submit accounts kept under *subsection (1)* for audit to the Comptroller and Auditor General to the extent and by such date as he or she may from time to time direct.

(3) Immediately after the audit referred to in *subsection (2)*, An tÚdarás shall furnish to the Minister a copy of—

(a) the audited accounts, and

(b) the report of the Comptroller and Auditor General on the accounts.

(4) The Minister shall cause a copy of the audited accounts furnished under this section, and a copy of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas.

Annual report of An tÚdarás

23. (1) An tÚdarás shall, not later than the 30th day of June in each year, prepare and submit to the Minister a report in writing (in this section referred to as the "annual report") of its activities in the immediately preceding year.

(2) The annual report shall include information on the performance of the functions of An tÚdarás during the period to which it relates and, subject to *section 21(9)*, such other information in such form as An tÚdarás considers appropriate.

(3) The Minister shall, as soon as may be after receiving the annual report, cause copies of it to be laid before each House of the Oireachtas.

(4) As soon as may be following the copies being laid before each House of the Oireachtas under *subsection (3)*, An tÚdarás shall arrange for the annual report to be published in such manner as An tÚdarás considers appropriate.

Gifts to An tÚdarás

24. (1) An tÚdarás may, with the consent of the Minister, accept gifts of money, land or other property upon such trusts and conditions (if any) as may be specified by the donor.

(2) An tÚdarás shall not accept a gift if the trusts or conditions attaching to it would be inconsistent with its functions.

Chapter 6

Chief Executive Officer

Chief Executive Officer

25. (1) An tÚdarás shall have a chief executive officer (in this Act referred to as the "Chief Executive Officer").

(2) Subject to *subsection (3)*, the Chief Executive Officer shall be appointed by the Board with the consent of the Minister.

(3) The person who immediately before the commencement of *section 7* was the chief executive officer of An tÚdarás may continue in office as the Chief Executive Officer of An tÚdarás in accordance with the terms and conditions of his or her appointment.

(4) The Chief Executive Officer may be removed or suspended from office by the Board, with the consent of the Minister, for stated reasons.

(5) The Chief Executive Officer shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances for expenses and superannuation) as may be determined by the Board, subject to the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(6) The Chief Executive Officer shall not hold any other office or employment in respect of which remuneration is payable, or carry on any business, trade or profession, without the consent of the Board.

(7) The Chief Executive Officer shall not be a member of the Board but he or she may, in accordance with procedures specified by the Board, attend meetings of the Board and shall be entitled to speak and give advice at such meetings.

Functions of Chief Executive Officer

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

(2) The Chief Executive Officer shall perform his or her functions subject to such directions as may be given to him or her from time to time by the Board, and shall be accountable to the Board for the efficient and effective management of An tÚdarás and for the due performance of his or her functions.

(3) The Chief Executive Officer may make proposals to the Board on any matter relating to its functions.

(4) The Chief Executive Officer shall provide the members of the Board with such information (including financial information) in relation to the performance of his or her functions as those members may request.

(5) The Board may designate a member of the staff of An tÚdarás to perform the functions of the Chief Executive Officer in the absence of the Chief Executive Officer or where the office of the Chief Executive Officer is vacant

and a member so designated shall, in such absence or upon such office being vacant, perform those functions.

(6) The Chief Executive Officer may delegate any of his or her functions, other than a function that is subject to a condition specified by the Board that the function shall not be delegated, to a specified member of the staff of An tÚdarás, and that member of the staff shall be accountable to the Chief Executive Officer for the performance of the functions so delegated.

(7) The Chief Executive Officer shall, notwithstanding any delegations made by him or her in accordance with *subsection (6)*, at all times remain accountable to the Board for the performance of any functions so delegated.

(8) The Chief Executive Officer may revoke a delegation made in accordance with *subsection (6)*.

Accountability of Chief Executive Officer to Public Accounts Committee

27. (1) The Chief Executive Officer 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, 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 tÚdarás is required by this Act to prepare,

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

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

(d) any matter affecting An tÚdarás 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 *paragraph (a)*, *(b)* or *(c)*) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the Chief Executive Officer 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.

Accountability of Chief Executive Officer to other Oireachtas committees

28. (1) Subject to *subsection (2)* the Chief Executive Officer shall, at the request in writing of an Oireachtas committee, attend before it to give account for the general administration of An tÚdarás.

(2) The Chief Executive Officer shall not be required to give account before an Oireachtas committee for any matter which is, or has been or may be the subject of proceedings before a court or tribunal of inquiry in the State.

(3) Where the Chief Executive Officer is of opinion that a matter in respect of which he or she is requested to give account before an Oireachtas committee is a matter to which *subsection (2)* applies, he or she shall, as soon as practicable, seek the opinion of the Board thereon.

(4) If the Board is of opinion that the matter concerned is one to which *subsection (2)* applies, the Chief Executive Officer shall inform the

Oireachtas committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Oireachtas committee at the time the Chief Executive Officer is before it, the information shall be conveyed to the Oireachtas committee in writing.

(5) If the Board is of opinion that the matter concerned is not one to which *subsection (2)* applies, the Chief Executive Officer shall attend before the Oireachtas committee to give account for the matter.

(6) Where the Chief Executive Officer has informed an Oireachtas Committee of the opinion of the Board in accordance with *subsection (4)* and the committee does not withdraw the request referred to in *subsection (1)* in so far as it relates to the matter the subject of that opinion—

(a) the Chief Executive Officer may, not later than 21 days after being informed by the Oireachtas 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 *subsection (2)* applies, or

(b) the chairperson of the Oireachtas committee may, on behalf of the Oireachtas committee, make an application,

and the High Court shall determine the matter.

(7) Pending the determination of an application under *subsection (6)*, the Chief Executive Officer shall not attend before the Oireachtas committee to give account for the matter the subject of the application.

(8) If the High Court determines that the matter concerned is one to which *subsection (2)* applies, the Oireachtas committee shall withdraw the request referred to in *subsection (1)* but if the High Court determines that *subsection (2)* does not apply, the Chief Executive Officer shall attend before the Oireachtas committee to give account for the matter.

(9) In the performance of his or her duties under this section, the Chief Executive Officer 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.

(10) In this section, "Oireachtas committee" means—

(a) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 27*, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann), or

(b) a sub-committee of a committee falling under *paragraph (a)*.

Chapter 7

Staff of An tÚdarás

Staff of An tÚdarás

29. (1) An tÚdarás may, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, appoint such and so many persons to be members of the staff of An tÚdarás as it may determine.

(2) The staff of An tÚdarás shall be employed on such terms and conditions as may be determined by An tÚdarás from time to time subject to the consent of the Minister and the Minister for Public Expenditure and Reform.

(3) There shall be paid by An tÚdarás to members of its staff such remuneration and allowances for expenses as may be approved from time to time by the Minister, with the consent of the Minister for Public Expenditure and Reform.

(4) Where a member of staff of An tÚdarás is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament,

he or she shall, thereupon, stand seconded from employment by An tÚdarás and shall not be paid by, or be entitled to receive from, An tÚdarás any remuneration or allowances for expenses in respect of the period commencing on such nomination or election or when he or she is so regarded as having been elected, as the case may be, and ending when such person ceases to be a member of either such House or a member of such Parliament.

(5) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from employment by An tÚdarás.

(6) A period mentioned in *subsection (4)* shall not, for the purposes of any superannuation benefit, be reckoned as service with An tÚdarás.

Existing staff of An tÚdarás

30. Notwithstanding the repeal of the Higher Education Authority Act 1971 by *section 5(1)*, a person who was an officer or servant of An tÚdarás appointed under section 14(1) of that Act, immediately before the commencement of *section 7* shall be deemed to be a member of the staff of An tÚdarás—

(a) as if, on that commencement, An tÚdarás had appointed under *section 29(1)* the person to be a member of the staff of An tÚdarás for the remaining period (if any) that was left to run for the person to hold office as such officer or servant, as the case may be, immediately before that commencement, and

(b) on the same conditions (including those relating to termination of appointment) as the person held office as such officer or servant, as the case may be, immediately before that commencement,

and the other provisions of this Act shall be construed accordingly.

Superannuation for members of staff of An tÚdarás

31. (1) Subject to section 48 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012, a pensionable public servant who—

(a) is not a member of the Single Public Service Pension Scheme, and

(b) is appointed under *section 29* to be a member of the staff of An tÚdarás,

shall, on his or her appointment as a member of the staff of An tÚdarás, become and be a member of a relevant superannuation scheme in accordance with its terms and conditions.

(2) A person referred to in *section 30* who, immediately before the commencement of *section 7*, was a member of a relevant superannuation scheme or the Single Public Service Pension Scheme shall, on that commencement, continue to be a member of the scheme concerned in accordance with its terms and conditions.

(3) An tÚdarás may prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under section 15 of the Higher Education Authority Act 1971 and the amended scheme shall be made in accordance with *Schedule 3*.

(4) An tÚdarás may prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this section and *Schedule 3* and the amended scheme shall be made in accordance with that Schedule.

(5) In this section "relevant superannuation scheme" means a scheme made under section 15 of the Higher Education Authority Act 1971 as amended from time to time by the Minister, with the consent of the Minister for Public Expenditure and Reform, and continued in force under *section 5(3)*.

Prohibition on unauthorised disclosure by members of staff of An tÚdarás of confidential information

32. (1) A person shall not disclose confidential information obtained by him or her while performing functions as a member of the staff of, or an adviser or consultant to An tÚdarás, or a member of the staff of such an adviser or consultant, unless he or she is authorised by An tÚdarás to so do.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both.

(3) Nothing in this section shall prevent the disclosure of information—

(a) in a report made to An tÚdarás,

(b) by or on behalf of An tÚdarás to the Minister,

(c) by a member of the Board to the Minister,

(d) by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995, or

(e) that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(4) In this section "confidential information" includes—

(a) information that is expressed by An tÚdarás to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) proposals of a commercial nature or tenders submitted to An tÚdarás by contractors, consultants or any other person.

PART 3

STRATEGIC PLANNING FOR TERTIARY EDUCATION AND PROVISION OF FUNDING FOR HIGHER EDUCATION

Chapter 1

Strategic planning for tertiary education and performance of higher education providers

Strategy for tertiary education

33. (1) The Minister shall prepare a strategy (in this section referred to as a "strategy") for the provision of tertiary education, which shall identify the objectives and outputs for the further education and training system and the higher education and research system and it shall relate to such period as the Minister considers appropriate, being a period of not more than 10 years.

(2) The first strategy shall be prepared by the Minister as soon as practicable and, in any event, not later than 3 years after the commencement of *section 7*.

(3) Not later than 3 months after the expiration of the period to which a strategy relates, the Minister shall prepare another strategy for the immediately following period of not more than 10 years.

(4) The Minister shall, in the preparation of a strategy, have regard to—

(a) any national policies that are relevant to the strategy, including policies relating to social, economic, cultural and environmental development and sustainability and the promotion and use of the Irish language,

(b) the further education and training system and the higher education and research system and how those systems relate to each other,

(c) the anticipated cost of implementing the strategy, and

(d) the availability of resources.

(5) The Minister shall, for the purposes of preparing or amending a strategy, consult with—

(a) the Minister for Education and such other Ministers of the Government as the Minister considers appropriate,

(b) An tÚdarás,

(c) An tSeirbhís,

(d) the Qualifications and Quality Assurance Authority of Ireland,

(e) F6**[**Taighde Éireann,**]**

(f) the National Apprenticeship Office established pursuant to *section 18*,

(g) the designated institutions of higher education or their representative bodies,

(h) institutions providing further education and training or their representative bodies,

(i) representatives of students or students' unions,

(j) trades unions or staff associations of members of staff of designated institutions of higher education which are recognised by those institutions,

(k) trades unions or staff associations of members of staff of institutions providing further education and training which are recognised by those institutions,

(l) public research funders, and

(m) such other bodies or persons as the Minister considers appropriate.

(6) The Minister shall publish the strategy as soon as practicable after its completion in such manner as the Minister considers appropriate.

(7) A strategy shall be reviewed by the Minister from time to time and it may be amended by the Minister if he or she considers it appropriate so to do.

(8) The Minister shall publish an amended strategy as soon as practicable after the completion of a review under *subsection (7)* in such manner as the Minister considers appropriate.

Annotations

Amendments:

F6 Substituted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(e), S.I. No. 373 of 2024.

Planning for provision of higher education

34. (1) An tÚdarás shall plan for the provision of higher education in the State by maintaining an on-going review of the demand for it.

(2) An tÚdarás may, for the purposes of *subsection (1)*, consult with—

(a) the Minister, the Minister for Education and such other Ministers of the Government as An tÚdarás considers appropriate,

(b) An tSeirbhís,

(c) the Qualifications and Quality Assurance Authority of Ireland,

(d) the designated institutions of higher education or their representative bodies,

(e) students' unions,

(f) trades unions or staff associations of members of staff of designated institutions of higher education which are recognised by those institutions, and

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

(3) An tÚdarás shall, for the purposes of the review required under *subsection (1)*—

(a) assess and measure the current number and distribution of students in each of the designated institutions of higher education,

(b) assess and measure the current number of students in each discipline,

(c) assess and measure the participation by students in priority groups in higher education, and

(d) assess the demand for higher education at a regional level and at national level and in each discipline having regard to—

(i) the current numbers of students, including the number of students participating at the senior level in post-primary education,

(ii) demographic projections,

(iii) the participation and demand for further education and training,

(iv) issues regarding equality, diversity and the inclusion of students in priority groups, and persons in those groups seeking to become students, in higher education,

(v) the education and skills requirements in the State,

(vi) environmental development and sustainability,

(vii) graduate outcomes,

(viii) emerging needs,

(ix) social, economic and cultural requirements, including the requirements in higher education for the promotion and use of the Irish language of students who are enrolled in primary schools and post-primary schools which provide education through the medium of the Irish language, with particular regard to such schools in or serving Gaeltacht Language Planning Areas, Gaeltacht Service Towns and Irish Language Networks, and

(x) such other matters as it considers appropriate.

(4) An tÚdarás shall make recommendations to the Minister as to the overall requirement for student places to be provided within the higher education system, having regard to—

(a) the review under *subsection (1)*,

(b) the strategy for tertiary education under *section 33*,

(c) any policy directions given by the Minister,

(d) the current numbers of students,

(e) demographic projections,

(f) any national policies that are relevant,

(g) issues regarding the equality, diversity and the inclusion of students in priority groups, and persons in those groups seeking to become students, in higher education,

(h) the education and skills requirements in the State,

(i) the participation in and demand for further education and training,

(j) environmental development and sustainability,

(k) graduate outcomes,

(l) emerging needs,

(m) social, economic and cultural requirements, including the requirements in higher education for the promotion and use of the Irish language of students who are enrolled in primary schools and post-primary schools which provide education through the medium of the Irish language, with particular regard to such schools in or serving Gaeltacht Language Planning Areas, Gaeltacht Service Towns and Irish Language Networks, and

(n) any other matters that it considers appropriate.

Performance framework

35. (1) An tÚdarás shall, with the approval of the Minister, prepare and establish a performance framework for the higher education and research system (in this section referred to as a "performance framework") at intervals of not less than once every 5 years and may publish the performance framework in such manner as it considers appropriate.

(2) An tÚdarás shall, for the purposes of preparing or amending a performance framework, consult with—

(a) representatives of students of designated institutions of higher education,

(b) designated institutions of higher education or their representative bodies, and

(c) such other body or person as An tÚdarás considers appropriate.

(3) A performance framework shall specify the following:

(a) priorities and outcomes at a national level that An tÚdarás, following consultation with the Minister, wishes to achieve as respects higher education with the public moneys allocated or to be allocated thereto during the period to which the performance framework relates;

(b) the performance objectives for the higher education providers that are connected to the provision of funding to those providers;

(c) the implementation, monitoring, assessment and reporting processes to be followed and complied with by higher education providers.

(4) An tÚdarás shall, in preparing a performance framework, have regard to the following:

(a) the strategy for tertiary education under *section 33*, taking account of the diversity of functions, objects and priorities of different higher education providers,

(b) national policy and objectives with regard to higher education and research, and

(c) the matters and outcomes whose implementation is sought to be prioritised.

(5) An tÚdarás shall review a performance framework from time to time as it considers appropriate and may, following a review and with the approval of the Minister, amend the performance framework.

(6) An tÚdarás shall prepare a report on a regular basis on the performance framework which—

(a) shall include information on the implementation of the performance framework, including the achievement of the objectives contained in it, and

(b) may include information on the performance of an individual relevant body or an individual designated institution of higher education that is not a relevant body (within the meaning of *section 36*).

(7) An tÚdarás shall submit the report under *subsection (6)* to the Minister and may publish the report in such manner as An tÚdarás considers appropriate.

Performance agreements with designated institutions of higher education

36. (1) An tÚdarás shall, following engagement with a relevant body, enter into a performance agreement with the relevant body for a period of not more than 5 years.

(2) An tÚdarás may, following engagement with a designated institution of higher education that is not a relevant body, enter into a performance agreement with the institution for a period of not more than 5 years.

(3) A performance agreement referred to in *subsection (1)* or *(2)* shall be in accordance with the performance framework then in place under *section 35* and shall take account of the strategic development plan (if any) of the relevant body or the designated institution of higher education that is not a relevant body, as the case may be, concerned.

(4) A performance agreement with a relevant body under *subsection (1)*, or a designated institution of higher education that is not a relevant body under *subsection (2)*, shall include—

(a) the performance objectives, and

(b) the implementation, monitoring, assessment and reporting processes,

for the relevant body or the designated institution of higher education that is not a relevant body, as the case may be, concerned.

(5) An tÚdarás shall, in consultation with a relevant body or a designated institution of higher education that is not a relevant body, review annually the performance agreement with that body under *subsection (1)* or institution under *subsection (2)*, as the case may be, and agree any amendments of the performance agreement arising from that review with that body or institution, as the case may be.

(6) A relevant body or a designated institution of higher education that is not a relevant body shall report to An tÚdarás on a regular basis in accordance with the monitoring, assessment and reporting processes specified in the performance agreement concerned or, as may be appropriate, the performance agreement as amended under *subsection (5)*.

(7) In this section a "relevant body" means a designated institution of higher education referred to in any of *subparagraphs (i)* to *(v)* of *section 53(1)(a)*.

Chapter 2

Provision of funding by An tÚdarás

Provision of funding by An tÚdarás

37. (1) An tÚdarás may, in accordance with this Chapter, provide funding from moneys provided to An tÚdarás under *section 19* to all or any of the following bodies or persons (in this Act referred to as "bodies seeking funding") in such manner, and subject to such conditions, as may be determined by An tÚdarás:

(a) a designated institution of higher education;

(b) a higher education provider that is not a designated institution of higher education;

(c) a person who, or a body which, provides support services for higher education;

(d) any other education provider or body which, or any person who, provides services that are consistent with the functions of An tÚdarás,

and, if any such institution, provider, person or body seeking funding receives, or has received, funding from An tÚdarás, it shall in this Act be referred to as a "funded body".

(2) An tÚdarás shall from time to time, with the approval of the Minister, prepare and establish a framework (in this Act referred to as a "funding framework") for the allocation of funding to bodies seeking funding in a manner that is consistent with the objects and functions of An tÚdarás provided for in this Act and in accordance with any directions given to it by the Minister.

(3) An tÚdarás shall, for the purposes of preparing and establishing a funding framework, consult with bodies seeking funding or their representative bodies.

(4) A funding framework shall specify—

(a) the schemes and programmes in respect of which An tÚdarás shall allocate funding to bodies seeking funding, and

(b) the criteria, terms and conditions for the allocation of such funding to such bodies.

(5) A funding framework may—

(a) specify different criteria, terms and conditions for the allocation of funding in respect of different schemes and programmes specified therein,

(b) provide that specified schemes and programmes may be availed of only by—

(i) specified designated institutions of higher education,

(ii) specified higher education providers, or

(iii) specified bodies or persons other than institutions and providers referred to in *subparagraph (i)* or *(ii)*,

(c) provide that specified schemes and programmes may be availed of on the basis of a competitive selection process,

(d) provide for a particular scheme or programme to address specific strategic policy priorities with identified policy outcomes,

(e) provide for the allocation of funding based on specified performance targets and outcomes,

(f) provide for a scheme or programme to increase participation of students in priority groups, and persons in those groups seeking to become students, in higher education, and

(g) provide that funding for a scheme or programme shall be allocated for a specified period.

(6) Nothing in this section shall be taken to mean that a designated institution of higher education, any other higher education provider or any other education provider, body or person shall be allocated funding by An tÚdarás in any financial year.

(7) In this section—

"services that are consistent with the functions of An tÚdarás" includes services relating to education, further education and training, apprenticeships, research, teaching or the promotion of learning;

"support services for higher education" means services provided by a person or body whose purpose or objects include the promotion, development or support of higher education and which the Minister, following consultation with An tÚdarás, specifies as a person or body to which *subsection (1)(c)* applies.

Conditions of funding

38. (1) Funding that is provided by An tÚdarás to a funded body under *section 37* shall be paid in such manner, and subject to such conditions, as the Chief Executive Officer specifies in writing to the body.

(2) The conditions, referred to in *subsection (1)*, that a funded body in receipt of funding under *section 37* shall comply with shall be consistent with the objects and functions of An tÚdarás provided for in this Act and may include a requirement on the body—

(a) to provide financial and other information to the Chief Executive Officer,

(b) to use the funding in a cost effective and beneficial manner,

(c) to operate according to standards of good governance,

(d) to comply with the guidelines, codes and policies issued by An tÚdarás under *section 143*,

(e) to comply on a continuous basis with the funding framework,

(f) to comply with financial requirements,

(g) to comply with this Act and regulations made thereunder, and

(h) to comply with such other conditions as may be determined, with the approval of the Board, by the Chief Executive Officer.

Information from other bodies relating to funding

39. The Chief Executive Officer may, for the following purposes, request information from such other bodies as he or she considers appropriate, including but not limited to the Qualifications and Quality Assurance Authority of Ireland F7**[**and Taighde Éireann**]**, as respects a body seeking funding or a funded body—

(a) in the case of a body seeking funding, to establish whether the body meets the criteria, terms and conditions in the funding framework, and

(b) in the case of a funded body, to ensure that the body continues to comply with the conditions of funding provided for in *section 38*.

Annotations

Amendments:

F7 Inserted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(f), S.I. No. 373 of 2024.

Compliance with conditions of funding

40. (1) A funded body shall provide to the Chief Executive Officer such information as he or she may require in relation to funding, including—

(a) the expenditure of the funding provided to the body by An tÚdarás under *section 37*, and

(b) its compliance with the conditions subject to which that funding was provided to it,

in such form and manner, and at such times, as the Chief Executive Officer may require.

(2) If a funded body does not provide to the Chief Executive Officer the information required under *subsection (1)*, the Chief Executive Officer shall request the funded body, by notice in writing, to provide to him or her such information as is specified in the notice and within such period as is specified therein, and the funded body shall comply with any such request.

(3) The Chief Executive Officer shall assess the information provided by a funded body under this section, and any other relevant information in his or her possession, to determine whether the funded body is in compliance with the conditions subject to which the funding was provided to the body.

(4) If the Chief Executive Officer is of opinion, following an assessment under *subsection (3)*, that there are serious deficiencies regarding the continued compliance by the funded body concerned with the conditions subject to which the funding was provided to that body, the Chief Executive Officer shall so inform the body in writing.

(5) The powers of the Chief Executive Officer under this section are without prejudice to his or her powers under *sections 64* to *68*.

Directions of Chief Executive Officer following assessment of compliance with conditions of funding

41. (1) Where the Chief Executive Officer has carried out an assessment under *section 40*, he or she may, following consultation with the funded body concerned, issue such directions to that funded body as he or she considers appropriate in writing in relation to its continued compliance with the conditions subject to which funding was provided to the body under *section 37*.

(2) Where a direction is issued under *subsection (1)* to a funded body, the funded body shall comply with the direction.

(3) A funded body issued with a direction under *subsection (1)* shall provide the Chief Executive Officer with information when requested to do so by the Chief Executive Officer regarding compliance by that body with the direction.

Remedial and other measures following assessment of compliance with conditions of funding

42. (1) Where, following an assessment under *section 40*, the Chief Executive Officer considers that—

(a) directions issued by him or her to the funded body concerned under *section 41* have not been complied with, or

(b) there are serious deficiencies regarding the continued compliance by the funded body concerned with the conditions subject to which funding was provided to that body under *section 37*,

the Chief Executive Officer may impose remedial or other measures on the funded body in accordance with this section.

(2) The remedial or other measures that the Chief Executive Officer may impose on the funded body concerned under this section may comprise one or more of the following:

(a) the exclusion of that body for a specified period from the provision of some or all categories of funding from An tÚdarás under *section 37*;

(b) the application to that body of revised conditions subject to which funding is, or has been, provided;

(c) the controlled release to that body of funding by An tÚdarás under *section 37*;

(d) the withholding of funding due to be paid to that body by An tÚdarás under *section 37*;

(e) the refund by that body of funding paid to it by An tÚdarás under *section 37*;

(f) the appointment by the Chief Executive Officer of a person or persons, or of a body, to provide advice or assistance of a specialist nature to the funded body concerned;

(g) the issuing of guidance to the funded body concerned regarding a particular matter or matters relating to funding;

(h) an admonishment or censure in writing of the funded body concerned, taking into account any professional regulatory requirements or obligations that may be thereby impacted;

(i) the requirement for members of the governing body of the funded body concerned to undertake a course of training on matters related to governance, management or funding;

(j) the requirement for a plan to be put in place by the funded body concerned providing for the rectification or resolution of an issue of concern to the Chief Executive Officer with specified targets to be met and monitoring requirements to ensure the implementation of the plan;

(k) the provision to such other bodies as the Chief Executive Officer considers appropriate, including but not limited to the Qualifications and Quality Assurance Authority of Ireland, of information relating to funding as respects the funded body concerned.

(3) Where the Chief Executive Officer proposes to impose a remedial or other measure he or she shall, by notice in writing to the funded body concerned, inform that body that he or she proposes to impose the remedial or other measure and shall state the reasons for the proposed imposition of the measure concerned.

(4) A notice under *subsection (3)* shall state that the funded body concerned may make representations to the Chief Executive Officer in relation to the reasons specified therein for the imposition of the remedial or other measure not later than 30 days after the service of the notice on that body.

(5) Where, after consideration of the representations (if any) made to the Chief Executive Officer in accordance with *subsection (4)*, the Chief Executive Officer decides, for the reasons stated in the notice under *subsection (3)* or otherwise, to impose a remedial or other measure on the funded body concerned, the Chief Executive Officer shall inform, by notice in writing, that body of that decision and of the specified date proposed as the date on which the remedial or other measure shall come into operation (which date shall not be a date earlier than the end of the prescribed period within which an appeal may be brought under *subsection (6)*).

(6) Where the Chief Executive Officer makes a decision under *subsection (5)* to impose a remedial or other measure on a funded body, the body may, in accordance with *section 69*, appeal against that decision within the prescribed period after the service of the notice under *subsection (5)*.

(7) Unless within the foregoing prescribed period an appeal is brought in accordance with *section 69* against the decision of the Chief Executive Officer referred to in *subsection (5)*, the Chief Executive Officer shall impose the remedial or other measure on the funded body concerned to come into operation on the date specified for that purpose in the notice under *subsection (5)*.

(8) The bringing of an appeal by the funded body against a decision of the Chief Executive Officer under *subsection (5)* to impose a remedial or other measure on the body shall not affect the coming into operation of the measure pending the determination or discontinuance of the appeal, unless the Chief Executive Officer, on application to him or her in that behalf within 7 days after the service of the notice under *subsection (5)*, agrees to stay the operation of the measure concerned pending the determination of the appeal.

(9) Where the Chief Executive Officer refuses an application from a funded body under *subsection (8)*, the funded body may apply to the appeals board established to determine the appeal to have the operation of the remedial or other measure concerned suspended until the determination of the appeal by the appeals board and, on such application, the appeals board may, if it considers it appropriate to do so, grant the application.

PART 4

Students

Engagement with students

43. (1) Notwithstanding the role and responsibility of designated institutions of higher education to engage with the students of their respective institutions, An tÚdarás shall, in collaboration with the Qualifications and Quality Assurance Authority of Ireland and representatives of students—

(a) promote formal engagement between students (including students in priority groups and students who are competent to speak the Irish language) of designated institutions of higher education and those institutions, and

(b) encourage designated institutions of higher education in the development of formalised engagement processes with students

(including students in priority groups and students who are competent to speak the Irish language) of those institutions,

to identify and address issues of concern in relation to the student experience of such students raised by them.

(2) The formalised engagement processes referred to in *subsection (1)* may include—

(a) the provision of training for students participating as members of the governing body of a designated institution of higher education in competencies related to how the business of the governing body is conducted, and

(b) a mechanism for the students referred to in *paragraph (a)* to request such training.

(3) Each designated institution of higher education shall report annually, whether in its annual report or otherwise, to An tÚdarás to provide information on—

(a) the engagement processes referred to in *subsection (1)* developed by it,

(b) the training referred to in *subsection (2)* provided by it, and

(c) a summary of issues of concern identified by students and representatives of students and how those issues have been or will be addressed by the designated institution of higher education, including as part of the processes referred to in *subsection (1)* developed by it.

National student engagement

44. (1) An tÚdarás shall, from time to time, at a national level, engage with and seek views from representatives of students (including representatives of students in priority groups and representatives of students who are competent to speak the Irish language) regarding issues of relevance at a national level to the experience of students participating in higher education, including matters related to teaching and learning, research, governance and support services for students.

(2) An tÚdarás may engage with the Minister, the Qualifications and Quality Assurance Authority of Ireland, higher education providers or such other bodies or persons as it considers appropriate in its engagement with representatives of students under *subsection (1)*.

(3) An tÚdarás shall consider the outcome of the engagement provided for in *subsection (1)* in the performance of its functions.

Student surveys

45. (1) An tÚdarás shall undertake, or cause to be undertaken, in co-operation with representatives of students, national representatives of designated institutions of higher education, designated institutions of higher education and the Qualifications and Quality Assurance Authority of Ireland surveys of students which shall—

(a) be undertaken at regular intervals and, in any event, not less frequently than once every 2 years,

(b) be undertaken in respect of undergraduate students and postgraduate students,

(c) collect information for the purpose of documenting student engagement in higher education identifying good practice and any challenges arising,

(d) collect information for the purpose of enhancing student engagement, teaching, learning and assessment at a local level and a national level,

(e) collect information on student opinion on important issues of higher education practice and policy at a local level and a national level, and

(f) collect information on such other matters as may be agreed from time to time by An tÚdarás, representatives of students, national representatives of designated institutions of higher education and the Qualifications and Quality Assurance Authority of Ireland, following consultation with the Minister.

(2) An tÚdarás shall, in partnership with representatives of students, national representatives of designated institutions of higher education, designated institutions of higher education and the Qualifications and Quality Assurance Authority of Ireland, publish, in such manner as is considered appropriate, a report of the findings of each student survey undertaken in accordance with *subsection (1)*.

(3) The processing of personal data under this section shall be carried out in compliance with the Data Protection Regulation and the Data Protection Act 2018.

PART 5

Access, participation and lifelong learning

Equity of access, participation and promotion of success

46. (1) An tÚdarás shall prepare and submit to the Minister for approval a draft strategic action plan (in this section referred to as a "draft plan") providing for equity of access to, and participation and the promotion of success in, higher education as soon as practicable and, in any event, not later than one year after the commencement of *section 7*, unless directed otherwise by the Minister.

(2) An tÚdarás shall, in the preparation of the draft plan have regard to—

(a) any policy directions given by the Minister,

(b) the likely cost of implementing the proposals contained in any such plan, and

(c) the availability of resources.

(3) An tÚdarás shall, for the purpose of preparing a draft plan, in addition to consulting with the Minister, consult with—

(a) the Minister for Education and such other Ministers of the Government as it considers appropriate,

(b) An tSeirbhís,

(c) the Qualifications and Quality Assurance Authority of Ireland,

(d) designated institutions of higher education or their representative bodies,

(e) the members of the staff of designated institutions of higher education or the trades unions or staff associations of those members of staff,

(f) representatives of students,

(g) members of the public, in such manner as it considers appropriate,

(h) such other bodies representing students in priority groups, and persons in those groups seeking to become students, in higher education as it considers appropriate, and

(i) such other body or person as it considers appropriate.

(4) A draft plan may specify—

(a) the categories of students, and persons seeking to become students, in higher education in priority groups,

(b) the ambition for enabling equity of access to, participation and the promotion of success in the higher education system,

(c) the goals, objectives, actions, targets and performance indicators for improving equity of access to, participation and the promotion of success in the higher education system by students in priority groups, and persons in those groups seeking to become students, in higher education,

(d) the body or person responsible for the implementation of any action,

(e) methods of evaluation, stakeholder engagement and progress measurement, and

(f) any policy directions given by the Minister.

(5) The Minister shall, as soon as practicable after the submission to him or her of a draft plan—

(a) approve the draft plan with or without modifications (in this section referred to as the "approved plan"), or

(b) refuse to approve the draft plan and give a direction to An tÚdarás to prepare a new draft plan in accordance with *subsections (1)* to *(4)*.

(6) The approved plan shall be for such period as the Minister considers appropriate, being a period of not more than 7 years, and the Minister may decide to extend the duration of an approved plan following consultation with An tÚdarás.

(7) An tÚdarás shall publish the approved plan as soon as practicable after its approval by the Minister in such manner as An tÚdarás considers appropriate.

(8) An tÚdarás shall prepare each subsequent draft plan not later than 3 months after the expiration of the previous approved plan.

(9) A designated institution of higher education shall have regard to the approved plan for the purposes of the preparation of its strategic development plan and its equality statement.

(10) A designated institution of higher education shall report annually, whether in its annual report or otherwise, to An tÚdarás on the implementation of the approved plan with regard to that institution, providing particulars of the goals, objectives, targets and performance indicators met and actions taken with regard to the implementation of the plan.

(11) An tÚdarás shall, from time to time whenever requested to do so by the Minister, prepare and furnish to the Minister progress reports on the approved plan which—

(a) shall include information on the implementation of the approved plan in the higher education system, and

(b) may include information on the implementation of the approved plan in individual designated institutions of higher education.

(12) An tÚdarás shall review an approved plan on not less than one occasion during the period to which the plan relates or, on the written direction of the Minister, and shall, for the purposes of the review, consult with the Minister and such other persons as An tÚdarás considers appropriate.

(13) An tÚdarás shall inform the Minister of the outcome of a review under *subsection (12)* and may, arising from the review, make recommendations for amendments to the approved plan.

(14) A designated institution of higher education shall, upon request, provide An tÚdarás with such information and assistance as may reasonably be required for the purposes of the review carried out in accordance with *subsection (12)*.

(15) The Minister may, as soon as practicable after the submission to him or her of the outcome of a review of the approved plan under *subsection (13)* amend the approved plan in accordance with the recommendations made by An tÚdarás with or without modifications.

(16) An tÚdarás shall publish, in such manner as it considers appropriate, an amended approved plan referred to in *subsection (15)* as soon as practicable after its amendment by the Minister.

Lifelong and flexible learning

47. (1) Notwithstanding the role and responsibility of designated institutions of higher education for the development and provision of lifelong and flexible learning in their respective institutions, An tÚdarás shall promote and support those institutions in the development and provision of lifelong and flexible learning for learners which—

(a) is learner centred,

(b) is at a pace which suits the needs of the learner,

(c) is provided in a mode or at a location suitable to the needs of the learner,

(d) provides flexible ways of entering higher education,

(e) recognises the different needs of different learners,

(f) meets the needs of individuals, business, enterprise, the community, local interests and others at a national level and a regional level,

(g) meets the needs of persons who are competent to speak the Irish language,

(h) promotes well-being, active citizenship, community engagement, inclusion, full participation in society and health in the learner,

(i) meets the skills needs of the economy and society,

(j) improves employment prospects for the learner,

(k) supports all learners to acquire the knowledge and skills needed to promote environmental development and sustainability, and

(l) facilitates the provision of various means of access, transfer and progression for learning.

(2) An tÚdarás shall support the implementation by designated institutions of higher education of procedures for access, transfer and progression in relation to learners that have been established in accordance with section 56(2) of the Act of 2012.

PART 6

Data protection

Supply of non-personal data

48. (1) A designated institution of higher education or a funded body (whether or not also a designated institution of higher education) shall furnish to An tÚdarás any non-personal data requested by An tÚdarás, in the format so requested, with regard to—

(a) the designated institution of higher education or funded body, as the case may be,

(b) the students attending the designated institution of higher education or funded body, as the case may be, and

(c) the members of the staff of the designated institution of higher education or funded body, as the case may be,

which are required for An tÚdarás to perform its functions.

(2) The non-personal data that An tÚdarás may request from a designated institution of higher education or a funded body under *subsection (1)* may include—

(a) financial data,

(b) data regarding the number of members of staff, remuneration of members of staff and other non-personal data relating to members of staff,

(c) data regarding the number of students, student results and achievements and other non-personal data relating to students, and

(d) such other data as may be prescribed in consultation with An tÚdarás.

(3) If a designated institution of higher education or a funded body fails or refuses to provide the data requested under *subsection (1)*, An tÚdarás may, by notice in writing, direct the designated institution of higher education or funded body, as the case may be, to provide the data within a period specified in the notice.

(4) A designated institution of higher education or a funded body to which a direction under *subsection (3)* is given shall comply with the direction within the period specified in the notice under that subsection.

(5) An tÚdarás may, by notice in writing, amend or revoke a direction under this section.

(6) Subject to the Data Protection Regulation and the Data Protection Act 2018, An tÚdarás may publish the data obtained by it under this section in such form and manner as it considers appropriate.

Supply of personal data

49. (1) Subject to the Data Protection Regulation and the Data Protection Act 2018, a designated institution of higher education or a funded body (whether or not also a designated institution of higher education) shall, if so requested by An tÚdarás, furnish to it such personal data in the format requested with regard to—

(a) a student of the designated institution of higher education or the funded body, including the name, address (including Eircode), date of birth, student number, Personal Public Service Number (PPSN), grant code for student support, Central Applications Office data, particulars of educational history, ethnicity, disability and socioeconomic status of the student,

(b) a member of the staff of the designated institution of higher education or the funded body, including the Personal Public Service Number (PPSN), gender, particulars regarding salary, disability and ethnicity of the member of the staff, and

(c) such other personal data as may be prescribed in consultation with An tÚdarás,

which are necessary and proportionate for An tÚdarás to perform its functions under *paragraphs (b)*, *(c)*, *(d)*, *(j)*, *(k)*, *(n)* and *(u)* of *section 9(1)*.

(2) The personal data requested by An tÚdarás from a designated institution of higher education or a funded body may include special categories of personal data, subject to suitable and specific measures taken to protect the data, which may include—

(a) limitations on access to the data undergoing processing within An tÚdarás in order to prevent unauthorised consultation, alteration, disclosure or erasure of the data,

(b) strict time limits for the erasure of the data and mechanisms to ensure that such time limits are observed,

(c) specific targeted training for those involved in processing operations, and

(d) where possible, the aggregation of the data.

(3) If a designated institution of higher education or a funded body fails or refuses to provide data when requested to do so under *subsection (1)* or *(2)*, An tÚdarás may, by notice in writing, direct the designated institution of higher education or the funded body, as the case may be, to provide the data within a period specified in the notice.

(4) A designated institution of higher education or a funded body to which the direction under *subsection (3)* is given shall comply with the direction within the period specified in the notice under that subsection.

(5) An tÚdarás may, by notice in writing, amend or revoke a direction under this section.

(6) Subject to the Data Protection Regulation and the Data Protection Act 2018, An tÚdarás may publish the data obtained by it under this section in such form and manner as it considers appropriate.

Furnishing of non-personal data

50. (1) An tÚdarás may furnish to—

(a) a designated institution of higher education,

(b) a funded body,

(c) a public body, including a Minister of the Government, the Office of the Revenue Commissioners, the Qualifications and Quality Assurance Authority of Ireland, An tSeirbhís F8**[**and Taighde Éireann**]**, or

(d) such other body as An tÚdarás considers appropriate, including the Central Applications Office,

non-personal data which come to its attention in the course of performing its functions, and which relate to one or more functions of the body referred to in any of *paragraphs (a)* to *(d)*.

(2) The public and other bodies referred to in *paragraphs (c)* and *(d)* respectively of *subsection (1)* may furnish non-personal data which come to their attention in the course of performing their functions to An tÚdarás.

Annotations

Amendments:

F8 Substituted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(g), S.I. No. 373 of 2024.

Furnishing of personal data

51. (1) Subject to the Data Protection Regulation, the Data Protection Act 2018, the Data Sharing and Governance Act 2019 and *subsection (3)*, An tÚdarás may furnish to designated institutions of higher education, a Minister of the Government, the Office of the Revenue Commissioners, the Qualifications and Quality Assurance Authority of Ireland, An tSeirbhís, F9**[**Taighde Éireann**]** and such other body as An tÚdarás considers appropriate, including the Central Applications Office, personal data as is necessary and proportionate which come to its attention in the course of performing its functions, and which relate to one or more of the functions of that body.

(2) Subject to the Data Protection Regulation, the Data Protection Act 2018, the Data Sharing and Governance Act 2019 and *subsection (3)*, bodies referred to in *subsection (1)* may furnish personal data which come to their attention in the course of performing their functions to An tÚdarás.

(3) The personal data that may be shared under *subsections (1)* and *(2)* shall be for the purpose of performing the functions of An tÚdarás under *paragraphs (b)*, *(c)*, *(d)*, *(j)*, *(k)*, *(n)* and *(u)* of *section 9(1)*.

Annotations

Amendments:

F9 Substituted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(h), S.I. No. 373 of 2024.

Research by An tÚdarás

52. (1) An tÚdarás may conduct studies and research on any issue related to the performance of its functions.

(2) An tÚdarás may appoint a person or body or a higher education provider to conduct the study or research on its behalf and may make such payment to the person, body or higher education provider appointed to undertake the study or research as it considers appropriate.

(3) Subject to the Data Protection Regulation and the Data Protection Act 2018, a designated institution of higher education, a funded body or an education provider shall provide any data requested by An tÚdarás or the person, body or higher education provider appointed to undertake the study or research on its behalf, in relation to any study or research undertaken under *subsection (1)*.

(4) A designated institution of higher education, a funded body or an education provider shall co-operate with An tÚdarás in relation to any study or research undertaken under *subsection (1)*.

(5) An tÚdarás may publish reports of such studies and research conducted under this section in such form and manner as it considers appropriate.

PART 7

Designated institutions of higher education

Chapter 1

Designated institutions of higher education

Designated institutions of higher education

53. (1) Each of the following institutions of higher education shall be a designated institution of higher education for the purposes of this Act (in this Act referred to as a "designated institution of higher education"):

(a) each of the following institutions of higher education shall, by virtue of this section, be regarded as so designated:

(i) an established university;

(ii) an educational institution established as a university under section 9 of the Act of 1997;

(iii) a technological university within the meaning of the Act of 2018;

(iv) a college to which the Institutes of Technology Acts 1992 to 2006 apply;

(v) the National College of Art and Design;

(vi) an education provider which is an authorised provider within the meaning of sections 54 to 57 of the Act of 1997;

(b) such other higher education providers in respect of which a designation order under *Chapter 2* of this Part is in force.

(2) In this section, "established university" means—

(a) a constituent university within the meaning of section 3 of the Act of 1997,

(b) Dublin City University established by section 2 of the Dublin City University Act 1989,

(c) Trinity College, Dublin, within the meaning of section 3 of the Act of 1997,

(d) the University of Limerick established by section 2 of the University of Limerick Act 1989.

Chapter 2

Designation by order of certain higher education providers as designated institutions of higher education

Designation by order of higher education provider as designated institution of higher education

54. (1) The Minister may by order (in this Act referred to as a "designation order") designate a higher education provider as a designated institution of higher education in accordance with this section provided that he or she is satisfied that the conditions for such designation prescribed under *section 55* are complied with by the higher education provider.

(2) A higher education provider may make an application to An tÚdarás for designation as a designated institution of higher education.

(3) An application under *subsection (2)* shall be in such form and be accompanied by such information as An tÚdarás may direct.

(4) An tÚdarás may, in respect of an application under *subsection (2)*—

(a) request by notice in writing to the higher education provider concerned such additional information as it may require for that purpose, and

(b) request from, use and rely on information from such other bodies as An tÚdarás considers appropriate, including but not limited to the Qualifications and Quality Assurance Authority of Ireland, as respects the higher education provider concerned.

(5) A higher education provider shall comply with a notice from An tÚdarás under *subsection (4)(a)* and shall provide the information requested by An tÚdarás from the provider within such period as may be specified in the notice.

(6) An tÚdarás may appoint an advisory panel, that may include national and international experts having a special interest in or expertise in, or knowledge of, matters relating to higher education, and may receive and have regard to advice given by that panel with respect to whether a higher education provider meets the conditions prescribed under *section 55* for designation as a designated institution of higher education.

(7) Subject to *subsections (2)* to *(6)*, An tÚdarás shall, from time to time, submit to the Minister in writing—

(a) the names of higher education providers that have applied under this section for designation as designated institutions of higher education and, with respect to each such application, an opinion of An tÚdarás on whether the higher education provider concerned meets the conditions

prescribed under *section 55* for designation as a designated institution of higher education, and

(b) the grounds on which that opinion is based as respects each such provider.

(8) An tÚdarás shall provide such further information as the Minister may request in respect of the higher education providers whose names are submitted by it to the Minister under *subsection (7)*.

(9) Subject to *subsections (10)* to *(12)*, the Minister may, having considered the information provided to him or her under this section and consulted with An tÚdarás as respects a higher education provider whose name was submitted to him or her by An tÚdarás under *subsection (7)*, decide to make or to refuse to make a designation order in respect of the higher education provider and, where the Minister decides to make such an order, the Minister shall make the order accordingly but only if he or she is satisfied that the conditions prescribed under *section 55* are complied with in respect of the higher education provider.

(10) The Minister shall make a decision under *subsection (9)* within a period of 6 months after the date of the submission by An tÚdarás of the name of a higher education provider under *subsection (7)*.

(11) The Minister shall, by notice in writing, inform a higher education provider of the decision of the Minister under *subsection (9)* as soon as may be after it is made and, where the decision is one to refuse to make a designation order, the notice shall state the reasons for the refusal.

(12) Where the Minister makes a decision under *subsection (9)* to refuse to make a designation order in respect of a higher education provider, the higher education provider may, in accordance with *section 69*, appeal against that decision within the prescribed period after the service of the notice under *subsection (11)*.

Conditions to be complied with for making of designation order

55. (1) The Minister shall, as soon as practicable after the commencement of *section 7* and following consultation with An tÚdarás, prescribe by regulations the conditions to be complied with by a higher education provider before a designation order can be made in respect of such a provider.

(2) The conditions referred to in *subsection (1)* shall be consistent with the objects and functions of An tÚdarás and may include some or all of the following:

(a) that the higher education provider has been established and is operated for the principal purposes of higher education, training and research;

(b) that the higher education provider provides a specified number of programmes of education and training and conducts examinations, which lead to education awards at a specified higher education level that are included within the National Framework of Qualifications;

(c) that the higher education provider has a good track record in relation to performance in the field of education and provides the programmes referred to in *paragraph (b)* for a prescribed period in the State prior to the date of the name of the provider being submitted to the Minister under *section 54(7)*;

(d) that the qualifications of the academic staff of the higher education provider are at a sufficiently high level to provide the programmes of education and training which it provides;

(e) that the higher education provider has integrated, coherent and effective governance structures in place concerning academic, administrative, financial and management matters;

(f) that the higher education provider—

(i) has, under section 28 of the Act of 2012, established procedures in writing for quality assurance in relation to which the Qualifications and Quality Assurance Authority of Ireland—

(I) has approved those procedures under the Act of 2012,

(II) has not proposed by notice under section 36(1) of that Act to withdraw that approval, and

(III) has not withdrawn that approval under section 36 of that Act,

or

(ii) if the higher education provider is a linked provider within the meaning of the Act of 2012, has, under section 28 of that Act, established procedures in writing for quality assurance in relation to which a relevant designated awarding body within the meaning of that Act—

(I) has approved those procedures under the Act of 2012,

(II) has not proposed by notice under section 39(1) of that Act to withdraw that approval, and

(III) has not withdrawn that approval under section 39 of that Act;

(g) that the higher education provider is financially viable and has sufficient financial resources available to meet any projected costs and to provide education for a specified period arising from the making of a designation order in respect of it;

(h) such other conditions as may be determined by the Minister in consultation with An tÚdarás.

(3) The Minister may prescribe different conditions under *subsection (2)* for different types of higher education providers.

(4) In this section—

"award" means an award that is included within the National Framework of Qualifications;

"level" means included at the level concerned within the National Framework of Qualifications.

Continuing obligation to comply with conditions for designation

56. (1) Each of the conditions for designation prescribed under *section 55* shall be regarded as a continuing condition that shall be complied with as respects a higher education provider subsequent to the making of a designation order in respect of it.

(2) A higher education provider in respect of which a designation order is in force shall, as soon as practicable, inform An tÚdarás of any material and

significant change of circumstances that arises, or events that occur, which could reasonably affect the capacity of the designated institution of higher education concerned to comply, or to continue to comply, with the conditions for designation prescribed under *section 55*.

Review of compliance with conditions for designation

57. (1) An tÚdarás shall, as soon as practicable after the commencement of *section 7*, establish procedures for the review by An tÚdarás of the activities of higher education providers in respect of which designation orders are in force for the purpose of ascertaining whether each of the continuing conditions for designation referred to in *section 56(1)* is being complied with as respects such providers.

(2) An tÚdarás shall, in accordance with the procedures established under *subsection (1)*, review the activities of a higher education provider in respect of which a designation order is in force for the purpose referred to in that subsection as respects that provider at the following times:

(a) from time to time at the request of the Minister;

(b) in the event of An tÚdarás being informed by that provider under *section 56(2)* of a change in its circumstances or the occurrence of an event which could reasonably affect the capacity of that provider to comply, or to continue to comply, with the continuing conditions for designation;

(c) if An tÚdarás forms the view that a material change of circumstances or an event may have occurred which could reasonably affect the capacity of that provider to comply, or to continue to comply, with the continuing conditions for designation; or

(d) from time to time as An tÚdarás considers appropriate.

(3) Where a review under *subsection (2)* is being conducted, An tÚdarás may, by notice in writing, request the higher education provider concerned to provide to it such information, in relation to the activities of the higher education provider, as is specified in the notice and the higher education provider shall provide that information to An tÚdarás within such period as is specified in the notice.

(4) An tÚdarás shall prepare a report setting out the outcome of a review under *subsection (2)*.

(5) An tÚdarás shall provide a copy of the report prepared under *subsection (4)* to the higher education provider concerned and the higher education provider may, within one month from the provision of the report to it, submit in writing any observations it has on the report to An tÚdarás.

(6) After consideration of any observations submitted to An tÚdarás under *subsection (5)*, An tÚdarás may make any amendments to the report that An tÚdarás considers appropriate.

(7) An tÚdarás shall provide a copy of the final report to the higher education provider concerned and may publish the report (including the observations of that higher education provider) in such form and manner as it considers appropriate (including on the internet).

Directions of An tÚdarás following review of compliance with conditions for designation

58. (1) Where An tÚdarás has carried out a review under *section 57*, it may, following consultation with the higher education provider concerned in

respect of which a designation order is in force, issue such directions to that higher education provider as it considers appropriate in writing in relation to its continued compliance with the conditions for designation prescribed under *section 55*.

(2) Where a direction is issued under *subsection (1)* to such a higher education provider, the higher education provider shall comply with the direction.

(3) A higher education provider issued with a direction under *subsection (1)* shall provide An tÚdarás with information when requested to do so by An tÚdarás regarding compliance by that higher education provider with the direction.

Revocation of designation order

59. (1) Where—

(a) the Minister is satisfied that a higher education provider, in respect of which a designation order is in force, is not complying with the conditions for designation prescribed under *section 55*, or

(b) a higher education provider in respect of which a designation order is in force applies under *subsection (15)* to have that order revoked,

the Minister may, in accordance with this section, make an order revoking the designation order in respect of the higher education provider (in this section referred to as a "revocation order").

(2) Subject to *subsections (3)* to *(10)*, if An tÚdarás is of opinion that a higher education provider, in respect of which a designation order is in force, is no longer complying with the conditions for designation prescribed under *section 55*, An tÚdarás shall inform the Minister of that opinion, and the reasons for that opinion, with a view to a revocation order being made by the Minister in respect of that provider.

(3) An tÚdarás shall provide such further information as the Minister may request in respect of a higher education provider referred to in *subsection (2)*.

(4) Where, following a review under *section 57*, An tÚdarás considers that—

(a) directions issued by it under *section 58* to a higher education provider in respect of which a designation order is in force have not been complied with, or

(b) whether or not such directions have been issued, there are serious deficiencies in the continued compliance by a higher education provider in respect of which a designation order is in force with the conditions for designation prescribed under *section 55*,

An tÚdarás shall consider in accordance with this section whether there are grounds for the making by the Minister of a revocation order in respect of that provider.

(5) An tÚdarás may, for the purpose of performing its functions under this section as respects a higher education provider in respect of which a designation order is in force—

(a) request by notice in writing to the provider such information as it may require, and

(b) may request from, use and rely on information provided by such bodies as An tÚdarás considers appropriate, including but not limited to the

Qualifications and Quality Assurance Authority of Ireland, as respects the provider.

(6) A higher education provider shall comply with a notice from An tÚdarás under *subsection (5)(a)* requesting information from the provider within such period as may be specified in the notice.

(7) An tÚdarás may appoint an advisory panel, that may include national and international experts having a special interest in or expertise in, or knowledge of, matters relating to higher education, and may receive and have regard to advice given by that panel with respect to the higher education provider's continued compliance with the conditions prescribed under *section 55* for designation as a designated institution of higher education.

(8) Where An tÚdarás is of opinion that a higher education provider, in respect of which a designation order is in force, is not complying with the conditions prescribed under *section 55* for designation, it shall, by notice in writing to the higher education provider, inform the provider that An tÚdarás proposes to seek to have a revocation order made by the Minister in respect of it and shall state the reasons for its opinion.

(9) A notice under *subsection (8)* shall state that the higher education provider concerned may make representations to An tÚdarás in relation to the reasons for the proposed revocation that are stated in the notice not later than 30 days after the service of the notice on the provider.

(10) Where, after consideration of the representations (if any) made to An tÚdarás in accordance with *subsection (9)*, An tÚdarás decides, for the reasons stated in the notice under *subsection (8)*, to proceed to seek the making by the Minister of a revocation order in respect of the higher education provider concerned, An tÚdarás shall inform the provider by notice in writing of that decision.

(11) Where the Minister is informed by An tÚdarás of its decision under *subsection (10)*, the Minister may, having considered the information provided to him or her by An tÚdarás under this section (including the representations, if any, made under *subsection (9)*) and having consulted with An tÚdarás as respects the higher education provider concerned, decide to make or to refuse to make a revocation order in respect of that provider and, where the Minister decides to make such an order, the Minister shall, subject to *subsection (13)*, make the order accordingly.

(12) Where the Minister decides under *subsection (11)* to make a revocation order in respect of a higher education provider, the Minister shall, by notice in writing, inform that provider of that decision as soon as may be after it is made and of the date the Minister proposes to specify in the revocation order as the date on which the order shall come into operation.

(13) Where the Minister makes a decision to make a revocation order in respect of a higher education provider under *subsection (11)* (other than a case to which *subsection (1)(b)* applies), the higher education provider may, in accordance with *section 69*, appeal against that decision within the prescribed period after the service of the notice under *subsection (12)*.

(14) Unless, within the foregoing period, an appeal in accordance with *section 69* against the decision of the Minister referred to in *subsection (11)*, the Minister shall make the revocation order in respect of the higher education provider concerned.

(15) (a) A higher education provider in respect of which a designation order is in force may apply to An tÚdarás to have a revocation order made in respect of it.

(b) An tÚdarás shall inform the Minister of an application under *paragraph (a)* and the Minister shall, by notice in writing, inform the provider of his or her intention to make a revocation order and of the date the Minister proposes to specify in the revocation order as the date on which the order shall come into operation.

(c) The Minister shall make a revocation order accordingly in respect of the higher education provider referred to in this subsection.

Use of title "designated institution of higher education"

60. (1) A designated institution of higher education may use the title "designated institution of higher education" to describe itself.

(2) A body which is not a designated institution of higher education shall not use the title "designated institution of higher education" to describe itself.

(3) An tÚdarás may apply to the High Court for an injunction to restrain any person from using the title "designated institution of higher education" in contravention of *subsection (2)*.

Chapter 3

Obligations of certain designated institutions of higher education and higher education providers

Strategic development plan of certain designated institutions of higher education

61. (1) This section applies to a designated institution of higher education referred to in *paragraphs (a)(vi)* or *(b)* of *section 53(1)*.

(2) A designated institution of higher education to which this section applies shall, as soon as practicable after the designation order is made or at a time that is agreed with An tÚdarás, prepare a plan (in this section called a "strategic development plan") for the period specified in the plan, being a period of not more than 5 years from the date the plan is prepared.

(3) A designated institution of higher education to which this section applies shall prepare each subsequent strategic development plan not later than 3 months after the expiration of the period specified in the previous strategic development plan.

(4) A designated institution of higher education to which this section applies shall, for the purpose of preparing a strategic development plan, consult with the following:

(a) the Minister;

(b) such Ministers of the Government as the institution considers appropriate;

(c) An tÚdarás;

(d) students or the students' unions of the institution;

(e) employees of the institution;

(f) the academic council of the institution;

(g) such education and training boards as the institution considers appropriate;

(h) a local authority (within the meaning of the Local Government Act 2001) in whose functional area the campus of the institution is located;

(i) such other body or person as the institution considers appropriate.

(5) A strategic development plan shall specify—

(a) the objectives of the designated institution of higher education to which this section applies for the period specified in the plan and the strategies for achieving those objectives,

(b) the purposes for which the institution proposes to use its resources,

(c) how the institution shall comply with any requirements imposed on it under this Act, including requirements in relation to governance and conditions related to funding,

(d) the plans of the institution to provide programmes of education and training and to promote excellent research that meet the needs of individuals, business, enterprise, the professions, the community and other stakeholders in the region in which the institution is located,

(e) the plans of the institution to develop and promote strong social, cultural and Irish language links, and links supporting creativity, between the institution and the community in the region in which the institution is located,

(f) the manner in which the plan relates to any performance agreement in place under *section 36*, and

(g) any other requirement specified by An tÚdarás.

(6) A strategic development plan prepared by a designated institution of higher education to which this section applies shall be in such form as An tÚdarás may direct.

(7) A designated institution of higher education to which this section applies shall provide a copy of the strategic development plan to An tÚdarás and shall publish it in such manner as it considers appropriate.

Equality statement of certain designated institutions of higher education

62. (1) This section applies to a designated institution of higher education referred to in *paragraph (a)(vi)* or *(b)* of *section 53(1)*.

(2) A designated institution of higher education to which this section applies shall, as soon as practicable after the designation order is made or at a time agreed with An tÚdarás, prepare a statement (in this section referred to as an "equality statement") for the period specified in the statement, being a period of not more than 5 years from the date the statement is prepared.

(3) A designated institution of higher education to which this section applies shall prepare each subsequent equality statement not later than 3 months after the expiration of the period specified in the previous equality statement.

(4) A designated institution of higher education to which this section applies shall, for the purpose of preparing an equality statement, consult with the following:

(a) the Minister;

(b) such Ministers of the Government as the institution considers appropriate;

(c) An tÚdarás;

(d) students or the students' unions of the institution;

(e) employees of the institution;

(f) the academic council of the institution;

(g) such education and training boards as the institution considers appropriate;

(h) a local authority (within the meaning of the Local Government Act 2001) in whose functional area the campus of the institution is located;

(i) such other body or person as the institution considers appropriate.

(5) An equality statement of a designated institution of higher education to which this section applies shall specify—

(a) the policy of the institution for enabling access to it, and the education it provides, by students in priority groups and persons in those groups seeking to become students,

(b) the policy of the institution relating to equality, including gender equality, in all activities of the institution, and

(c) the manner in which the plan relates to any strategic development plan under *section 61*, and any performance agreement in place under *section 36*, in relation to the institution.

(6) A designated institution of higher education to which this section applies shall implement the policies set out in the equality statement prepared by it under this section.

(7) A designated institution of higher education to which this section applies shall provide a copy of the equality statement to An tÚdarás and shall publish it in such manner as it considers appropriate.

Accounts of certain higher education providers

63. (1) This section applies to—

(a) a designated institution of higher education referred to in *paragraph (a)(vi)* or *(b)* of *section 53(1)*, or

(b) a higher education provider which is not a designated institution of higher education that receives, or has received, funding from An tÚdarás under *section 37*.

(2) A designated institution of higher education or a higher education provider to which this section applies shall keep, in such form as An tÚdarás may approve, all proper and usual accounts and records of all moneys received or expended by it, including an income and expenditure account and a balance sheet and such special accounts as An tÚdarás may from time to time direct.

(3) A designated institution of higher education or a higher education provider to which this section applies shall submit accounts kept under *subsection (2)* for audit to an auditor to the extent and by such date as An tÚdarás may from time to time direct.

(4) Immediately after the audit referred to in *subsection (3)*, the designated institution of higher education or the higher education provider to which this section applies shall furnish to An tÚdarás a copy of—

(a) the accounts, and

(b) the report of the auditor on the accounts.

(5) Immediately after the audit referred to in *subsection (3)*, the designated institution of higher education or the higher education provider to which this section applies concerned shall publish the accounts and the report of the auditor on the accounts.

PART 8

Oversight by An tÚdarás of designated institutions of higher education

Review of matter and report to An tÚdarás

64. (1) The Chief Executive Officer may, if he or she is of opinion that there are significant concerns regarding the governance of a designated institution of higher education or the performance by such an institution of its functions or compliance by it with its obligations including, but not limited to, compliance with any guidelines, codes or policies issued under *section 143*, request the governing body of the institution in writing to undertake a review in accordance with this section.

(2) The Chief Executive Officer shall specify in a request under *subsection (1)* the matter to be reviewed and the reasons for the review.

(3) The governing body of a designated institution of higher education concerned shall—

(a) arrange for a review of the matter specified in a request under *subsection (1)*, and

(b) prepare and submit a report on that matter to the Chief Executive Officer.

(4) The governing body of a designated institution of higher education concerned shall prepare and submit a report on the matter to the Chief Executive Officer not later than 60 days after the request under *subsection (1)* is made and that period may, with the approval of the Chief Executive Officer, be extended by a period of not more than 30 days.

(5) The Chief Executive Officer may, following consideration of a report received by him or her under *subsection (4)*—

(a) determine that no further action is required, or

(b) make a determination in accordance with *section 65*.

(6) The Chief Executive Officer shall provide a copy of a report received by him or her under *subsection (4)* to the Minister.

(7) The Chief Executive Officer may, with the approval of the Board, publish a report received by him or her under *subsection (4)* in such form and manner as the Board considers appropriate.

Determination of matter by Chief Executive Officer

65. (1) The Chief Executive Officer may, in relation to a matter that is the subject of a request under *section 64(1)*, make a determination under *subsection (3)* for action to be taken by him or her in relation to the designated institution of higher education concerned if, following the request, the designated institution of higher education concerned does not undertake a review or prepare and submit a report to the Chief Executive Officer, or both, in accordance with *section 64*.

(2) If, following the receipt and consideration of a report under *section 64* prepared and submitted by the designated institution of higher education concerned, the Chief Executive Officer is not satisfied that his or her concerns about the governance of the institution or the performance by it of its functions or compliance by it with its obligations have been adequately addressed and resolved, the Chief Executive Officer may make a determination under *subsection (3)* for action to be taken by him or her in relation to that institution.

(3) The Chief Executive Officer may make a determination in writing to take all or any of the following actions as respects the designated institution of higher education concerned in order to address his or her concerns referred to in *section 64(1)* in relation to that institution and, where appropriate, more than one action may be taken at any one time:

(a) the imposition of remedial measures as respects the institution concerned in accordance with *section 66*;

(b) the provision of information to such bodies as the Chief Executive Officer considers appropriate, as respects the institution concerned, in accordance with *section 67*;

(c) the undertaking of a review of a matter concerning the institution concerned in accordance with *section 68*.

(4) A determination by the Chief Executive Officer under *paragraph (a)* or *(c)* of *subsection (3)* may be appealed by the designated institution of higher education concerned in accordance with *section 69* within the prescribed period after the service of a notice on that institution under *section 66(2)* or *68(2)*, as the case may be.

(5) The Chief Executive Officer may publish a determination under *subsection (3)* in such form or manner as he or she considers appropriate.

(6) The bringing of an appeal by a designated institution of higher education against a determination of the Chief Executive Officer under *subsection (3)* to impose a remedial or other measure on the institution shall not affect the coming into operation of the measure pending the determination or discontinuance of the appeal, unless the Chief Executive Officer, on application to him or her in that behalf within 7 days after the service of a notice under *section 66(2)*, agrees to stay the operation of the measure concerned pending the determination of the appeal.

(7) Where the Chief Executive Officer refuses an application from a designated institution of higher education under *subsection (6)*, the institution may apply to the appeals board established to determine the appeal to have the operation of the remedial or other measure concerned suspended until the determination of the appeal by the appeals board and, on such application, the appeals board may, if it considers it appropriate to do so, grant the application.

(8) The bringing of an appeal by a designated institution of higher education against a determination of the Chief Executive Officer under *paragraph (c)*

of *subsection (3)* shall have the effect of staying the operation of the determination until the appeal is determined or discontinued.

Remedial and other measures

66. (1) The Chief Executive Officer may impose on a designated institution of higher education a requirement to take a remedial or other measure or measures in accordance with this section if he or she makes a determination to do so under *section 65(3)(a).*

(2) The Chief Executive Officer shall inform the designated institution of higher education concerned by notice in writing of the type of remedial or other measure or measures required to be taken by the institution under this section and the period for which that measure or those remedial measures is or are to be taken.

(3) Subject to *subsection (4)*, the remedial or other measures that the Chief Executive Officer may impose on a designated institution of higher education under this section may comprise any one or more of the following:

(a) an admonishment or censure in writing of the institution, taking into account any professional regulatory requirements or obligations that may be thereby impacted;

(b) the requirement for members of the governing body of the institution or members of its staff to undertake a course of training on matters related to governance;

(c) the requirement for a plan to be put in place by the institution providing for the rectification or resolution of an issue of concern to the Chief Executive Officer with specified targets to be met and monitoring requirements to ensure the implementation of the plan;

(d) the review of the strategic development plan of the institution;

(e) the temporary exclusion of the institution from particular categories of funding payable by An tÚdarás;

(f) the application to the institution of revised conditions of funding;

(g) the controlled release of funding by An tÚdarás to the institution;

(h) the withholding by An tÚdarás of funding due to be paid to the institution;

(i) the refund by the institution of funding paid by An tÚdarás to it.

(4) The approval of the Board shall be required before a remedial or other measure referred to in *paragraph (a)*, *(b)* or *(d)* of *subsection (3)* may be imposed on a designated institution of higher education.

(5) The Chief Executive Officer shall, upon the expiry of the period specified under *subsection (2)* for the taking by the designated institution of higher education concerned of a remedial or other measure or measures, review the matter concerned related to that institution and may, following such review—

(a) determine that no further remedial or other measure or measures under this section is or are required to be taken by the institution,

(b) extend for such period as he or she considers appropriate and is specified in writing the requirement under this section for a remedial or other measure or measures to be taken by the institution,

(c) provide for the payment to the institution of funding that is withheld by An tÚdarás under *subsection (3)(h)*, or

(d) determine that a different type of remedial or other measure or measures ought to be taken by the institution under *subsection (3)*.

Furnishing of information to other bodies

67. (1) The Chief Executive Officer shall, if a determination is made by him or her under *section 65(3)(b)*, furnish to—

(a) the Qualifications and Quality Assurance Authority of Ireland, information on any issue concerning a designated institution of higher education relating to the performance by that Authority of any one or more of its functions specified in *subsection (2)* as respects that institution, F10**[**...**]**

F11**[**(aa) Taighde Éireann, information on any issue concerning a designated institution of higher education relating to the performance by it of any one or more of its functions specified in *subsection (3)* as respects that institution, and**]**

(b) such other bodies as the Chief Executive Officer considers appropriate, information on any issue concerning a designated institution of higher education relating to the performance by that body of its functions as respects that institution.

(2) The functions of the Qualifications and Quality Assurance Authority of Ireland referred to in *subsection (1)* are those provided for in sections 29A, 29B, 29C, 34, 42, 46, 54, 55G, 57, 61, 63 and 65 of the Act of 2012.

F11**[**(3) The functions of Taighde Éireann referred to in *subsection (1)* are those provided for in paragraphs (b), (c), (d), (e), (g), (h), (i), (j), (k), (l), (m) and (n) of section 9 (1) of the Research and Innovation Act 2024.**]**

Annotations

Amendments:

F10 Deleted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(i)(i), S.I. No. 373 of 2024.

F11 Inserted (1.08.2024) by *Research and Innovation Act 2024* (15/2024), s. 69(i)(ii),(iii).

Appointment of reviewer of designated institution of higher education

68. (1) The Chief Executive Officer, with the approval of the Board, may appoint a person (in this section referred to as a "reviewer") to carry out a review in accordance with this section into any matter specified in writing by An tÚdarás concerning a designated institution of higher education if he or she makes a determination to do so under *section 65(3)(c)*.

(2) The Chief Executive Officer shall inform the governing body of the designated institution of higher education concerned by notice in writing of the appointment of a reviewer under *subsection (1)* and the matter to be reviewed.

(3) The members of the governing body, and the employees, of the designated institution of higher education concerned shall comply with a request from a reviewer to provide him or her with such information and assistance as the reviewer may reasonably require for the purposes of the review.

(4) As soon as practicable after the review, a reviewer shall prepare a draft of the report on the review that he or she proposes to furnish to An tÚdarás (in this section referred to as the "draft report").

(5) A reviewer shall furnish the draft report to An tÚdarás and the governing body of the designated institution of higher education concerned and may furnish the draft report, or a part of the draft report, to any other person he or she considers necessary and shall give notice in writing to An tÚdarás, the governing body and that other person, that they may make representations to the reviewer concerning the draft report or, as the case may be, a part of the draft report, not later than 28 days after it is furnished to them.

(6) As soon as practicable after the expiration of the later of the periods of 28 days referred to in *subsection (5)* and having considered any representations made pursuant to that subsection, the reviewer may amend the draft report and shall furnish the final report on the review to An tÚdarás (in this section referred to as the "final report").

(7) An tÚdarás shall furnish the final report to the Minister.

(8) An tÚdarás may publish the final report in such form and manner as it considers appropriate.

(9) An tÚdarás shall consider the final report and, following that consideration, the Chief Executive Officer may make a determination in accordance with *section 65(3)* as respects the designated institution of higher education concerned.

PART 9

Appeals

Appeals board

69. (1) The Minister shall, within 28 days or such other period as may be prescribed after the receipt of a notice of appeal under *section 42(6)*, *54(12)*, *59(13)* or *65(4)*, establish an appeals board (in this Act referred to as an "appeals board") comprised of 3 members, one of whom shall be its chairperson along with 2 ordinary members, for the purposes of determining the appeal.

(2) Subject to *subsection (9)*, the Minister shall appoint—

(a) two persons having a special interest in or expertise in, or knowledge of, matters relating to higher education or the functions of An tÚdarás (other than members of the Board or members of the staff of An tÚdarás or officers of the Minister), and

(b) one person who is a practising solicitor, or a practising barrister, having not less than 10 years' experience as such (other than a solicitor or barrister in the full-time service of the State),

as the members of an appeals board.

(3) The Minister shall appoint a chairperson of an appeals board from among the members of the appeals board.

(4) A member of an appeals board is entitled to be paid such fees and allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.

(5) The Minister shall furnish such support of an administrative nature to an appeals board as the Minister in his or her opinion determines necessary to enable the board to perform its functions.

(6) A member of an appeals board may at any time resign as such a member by giving notice in writing to the Minister of his or her resignation.

(7) A resignation under *subsection (6)* shall take effect on the day on which the Minister receives the notice.

(8) The Minister may at any time remove a member of an appeals board if, in the opinion of the Minister—

(a) the member has become incapable through ill-health of effectively performing his or her functions,

(b) the member has committed stated misbehaviour, or

(c) the removal of the member appears to the Minister to be necessary for the effective performance by the appeals board of its functions.

(9) A person shall not be appointed to be a member of an appeals board, and he or she shall cease to be a member of an appeals board, if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence in relation to a company,

(e) is convicted of an offence involving fraud or dishonesty, or

(f) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014.

Determination of appeal by appeals board

70. (1) An appeal—

(a) shall be lodged with the Minister within the time, and in accordance with the procedures, prescribed under *section 71*, and

(b) shall state the grounds for the appeal.

(2) Subject to this Act and any regulations under *section 71*, the chairperson of an appeals board shall regulate the procedures of the board.

(3) An appeals board may refuse to hear an appeal where, in the opinion of the appeals board, the appeal lodged is not made in good faith or is frivolous or vexatious.

(4) An appeals board may require any person to provide information which it may reasonably require for the purposes of conducting and determining an appeal.

(5) An appeals board may, if it considers it necessary for the purposes of determining an appeal, hold a hearing.

(6) Each of the parties to an appeal is entitled to be heard at the hearing and to present evidence to the appeals board.

(7) An appeals board may adjourn the hearing by it of a matter until a date specified by it.

(8) A decision by a majority of the members of an appeals board shall suffice for any purpose.

(9) In determining an appeal, an appeals board may—

(a) affirm the decision of the Chief Executive Officer or the Minister, as the case may be, or

(b) where it is satisfied that a serious or significant error or a series of errors was made in making the decision the subject of the appeal or that the decision was made without complying with fair procedures, quash the decision and remit it, for stated reasons, to the Chief Executive Officer or the Minister, as may be appropriate.

(10) An appeals board shall communicate its determination under *subsection (9)*, including the reasons under *paragraph (b)* of that subsection, to the person who or the body which brought the appeal concerned and the Chief Executive Officer and the Minister as soon as practicable after it is made.

(11) In the case of a determination under *subsection (9)(b)*, the Chief Executive Officer or the Minister, as may be appropriate, shall reconsider his or her decision.

(12) An appeals board shall be independent in the performance of its functions.

Appeal procedures

71. (1) As soon as practicable after the commencement of *section 7* and following consultation with An tÚdarás, the Minister shall prescribe procedures for the conduct and determination of appeals under this Act.

(2) Different procedures may be prescribed under *subsection (1)* for appeals under different provisions of this Act.

(3) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide for all or any of the following:

(a) the form and manner to be used for bringing an appeal under this Act;

(b) the time within which an appeal shall be brought after the date of the decision of the Chief Executive Officer or the Minister, as the case may be, that is being appealed;

(c) the fees (if any) to accompany a notice of appeal and the circumstances in which such fees may be refunded, in whole or in part;

(d) the period within which the Minister shall establish an appeals board after the receipt of a notice of appeal;

(e) the information and documents which shall be provided to the appeals board and the manner in which they shall be so provided;

(f) the procedures to be followed regarding the making of submissions to an appeals board and their form;

(g) the time within which an appeal shall be determined.

Annotations

Editorial Notes:

E4 Power pursuant to section exercised (5.04.2024) by *Higher Education Authority Act 2022 (Appeals) Regulations 2024* (S.I. No. 132 of 2024), in effect as per reg. 1(2).

PART 10

Amendments of Universities Act 1997

Amendment of section 4(1) of Act of 1997

72. Section 4(1) of the Act of 1997 is amended by—

(a) the deletion of "but subject to subsection (2),", and

(b) the substitution of "while they are designated institutions of higher education and are funded bodies in accordance with the *Higher Education Authority Act 2022*" for "while they are institutions of higher education in receipt of moneys in accordance with the Higher Education Authority Act 1971".

Composition of governing authority of university

73. The Act of 1997 is amended by the substitution of the following section for section 16:

"16. (1) Subject to this Part, a governing authority, other than in the case of Trinity College to which section 16A applies, shall consist of 19 members as determined in accordance with this Chapter.

(2) The members of a governing authority shall be—

(a) the chairperson, who shall be an external member, appointed by the governing authority,

(b) nine external members (other than the chairperson), appointed by the governing authority,

(c) the chief officer,

(d) five internal members (other than the chief officer) appointed by the governing authority, and

(e) three student union representatives appointed by the governing authority.

(3) The internal members of a governing authority shall be elected or selected for appointment as such internal members in accordance with regulations made under subsection (6).

(4) Subject to subsection (5), with regard to the appointment of external members of a governing authority—

(a) three such members shall be nominated by the Minister, and

(b) seven such members shall be appointed by the governing authority in accordance with a process for such appointments that is determined by the governing authority and approved by the Minister.

(5) Before a person is nominated for appointment or appointed, as may be appropriate, as an external member of a governing authority of a university, the Minister or the governing authority of the university, as the case may be, shall be satisfied that the person is suitable for appointment as such an external member by reason of his or her possessing knowledge of, and experience in, matters connected with the objects and functions of the university to enable him or her to make a substantial contribution to the effective and efficient performance of those functions.

(6) A governing authority shall, with the approval of the Minister, make such regulations relating to the selection, election, nomination or appointment of members of the governing authority as it thinks fit, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations.

(7) In performing functions under this section, the Minister and a governing authority shall have regard to the objectives that—

(a) not less than 40 per cent of the members of the governing authority shall be women and not less than 40 per cent of them shall be men, and

(b) the membership of the governing authority shall broadly reflect the composition of Irish society, including persons who are competent in the Irish language.

(8) In this section and in sections 16A, 17 and 23A—

'external member', in relation to a governing authority, means a member of the governing authority other than an internal member or a student member thereof;

'internal member', in relation to a governing authority, means a member of the governing authority who is a member of the academic council of the university, an employee of the university or a person who is remunerated under a contract with the university and, in the case of Trinity College, including fellows of Trinity College;

'student member', in relation to a governing authority, means a member of the governing authority who is a student of the university.".

Provisions relating to Trinity College, Dublin

74. The Act of 1997 is amended by the insertion of the following sections after section 16 (inserted by *section 73*):

"Composition of governing authority of Trinity College, Dublin

16A. (1) Subject to this Part and notwithstanding section 3(2) of The Trinity College, Dublin (Charters and Letters Patent Amendment) Act 2000, the governing authority of Trinity College (known as the Board of Trinity College) shall consist of the following members:

(a) 19 members appointed in accordance with section 16;

(b) such further number of members, who are fellows of Trinity College, appointed by the governing authority, provided that the number of external members (including the chairperson)

of the governing authority shall comprise not less than 40 per cent of its membership.

(2) Clause 4 of the Supplemental Letters Patent of 1911 (within the meaning of The Trinity College, Dublin (Charters and Letters Patent Amendment) Act 2000) is amended by the substitution of "shall be in accordance with the provisions of the Universities Act 1997" for "shall be in accordance with the provisions of The Trinity College, Dublin (Charters and Letters Patent Amendment) Act 2000".

Referral of matter for conduct of General Visitation by Trinity College Visitors

16B. (1) An tÚdarás may, if it has a concern regarding a matter relating to the governance of Trinity College or the performance by Trinity College of its functions or compliance by it with its obligations, request the Visitors of Trinity College in writing to conduct a General Visitation in accordance with the statutes of Trinity College as respects the matter.

(2) An tÚdarás shall specify in a request under subsection (1) the matter the subject of its concern and the reasons for the request.

(3) The Visitors of Trinity College shall consider a request received under subsection (1) and shall, if they are satisfied that there are reasonable grounds for a General Visitation and that it is appropriate to do so, conduct a General Visitation as respects the matter specified in the request in accordance with the statutes of Trinity College.

(4) The Visitors of Trinity College shall, within such period as may be agreed with An tÚdarás, report in writing to An tÚdarás on the General Visitation and the outcome thereof and they shall furnish such a report to the governing authority of Trinity College.

(5) This section is without prejudice to *Part 8* of the *Higher Education Authority Act 2022* as respects Trinity College.

(6) An tÚdarás shall provide a copy of a report received by it under subsection (4) to the Minister.

(7) In this section—

'General Visitation', in relation to Trinity College, has the meaning it has in the statutes of Trinity College;

'Visitors of Trinity College', means the persons appointed as the Visitors of Trinity College pursuant to the statutes of Trinity College.".

Chairperson of governing authority

75. The Act of 1997 is amended by the substitution of the following section for section 17:

"17. (1) The first meeting of a governing authority of a university shall be chaired by an external member of the governing authority who is appointed by a majority vote of the members to be an interim chairperson of the governing authority until the appointment of a chairperson under subsection (2).

(2) A governing authority shall, at the first meeting of the governing authority, appoint an external member of the governing authority to be the chairperson of the governing authority by a majority vote of not less than two-thirds of its members.

(3) A person shall cease to be chairperson of a governing authority if he or she ceases to be an external member of the governing authority.".

Amendment of section 18 of Act of 1997

76. Section 18 of the Act of 1997 is amended—

(a) by the insertion of the following subsections after subsection (1):

"(1A) The governing authority of a university shall—

(a) promote the success (including academic success) and reputation of the university,

(b) satisfy itself that appropriate systems, procedures and practices are in place—

(i) to achieve the objects of the university,

(ii) for the internal performance management and accountability of the university in respect of—

(I) the performance of its functions, and

(II) the achievement of the aims in the strategic development plan under section 34,

and

(iii) 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 university,

and

(c) establish and implement arrangements for the management of the performance of the chief officer.

(1B) Without prejudice to the generality of subsections (1) and (1A), the governing authority of a university shall perform the following functions with regard to the university:

(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 in accordance with the Qualifications and Quality Assurance (Education and Training) Act 2012;

(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 chief officer;

(h) manage the financial affairs of the university to ensure value for money and its financial viability;

(i) account to An tÚdarás for funding provided to the university by An tÚdarás.",

and

(b) in subsection (4), by the insertion of "(including committees relating to audit and risk management functions)" after "appoint such and as many committees".

Review of matter and report by governing authority of university

77. The Act of 1997 is amended by the insertion of the following section after section 18:

"18A. (1) If a governing authority has concerns regarding a matter relating to the governance, or the performance of the functions of the university, the governing authority shall arrange for a review of the matter to be undertaken.

(2) A governing authority 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 the governing authority, the chief officer and the employees of the university and the governing authority, the chief officer and the employees of the university 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 made arising therefrom and shall provide a copy of the report to the governing authority and the chief officer.

(5) A governing authority 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) A governing authority 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 the governing authority under that subsection, including any measures taken under subsection (5).".

Transitional arrangements for membership and chairperson of governing authority

78. The Act of 1997 is amended by the insertion of the following Chapter after Chapter III of Part III:

"Chapter IIIA

Transitional arrangements for membership and chairperson of governing authority

Transitional arrangements for membership and chairperson of governing authority

23A. (1) A governing authority of a university shall, as soon as practicable after the relevant date and with the approval of the Minister, determine the arrangements and procedures to be put in place by it to ensure that the composition of the governing authority of the university complies with section 16 (inserted by *section 73* of the *Act of 2022*) or, as may be appropriate, section 16A (inserted by *section 74* of the *Act of 2022*) within the period referred to in subsection (2).

(2) Subject to subsections (3) to (5), a governing authority of a university shall, within 12 months of the relevant date—

(a) determine the composition of the governing authority of its university in accordance with the arrangements and procedures put in place by it under subsection (1),

(b) appoint the members (other than the chief officer) of the governing authority accordingly, and

(c) by notice in writing, inform the Minister of the composition as so determined.

(3) (a) Notwithstanding section 17 (inserted by *section 75* of the *Act of 2022*), a person (other than the chief officer) who was the chairperson of a governing authority of a university upon the commencement of *section 75* of the *Act of 2022* may continue after that commencement to be the chairperson of the governing authority of that university until his or her membership of the governing authority ceases, provided that he or she is an external member.

(b) For the purposes of paragraph (a), a term served by a person referred to in that paragraph as a member of the governing authority, but not as chairperson thereof, before the commencement referred to in that paragraph shall be disregarded for the purposes of paragraph 4(1)(b) of the Third Schedule.

(4) A person (other than the chief officer) who was appointed as a member (including the chairperson) of the governing authority before the relevant date and who is re-appointed as such member pursuant to subsection (2)(b)—

(a) shall be so re-appointed for a term of office of no longer than the unexpired term for which he or she was so appointed, and

(b) the term of office served by the member (including the chairperson) immediately before the relevant date and the term of office for which he or she is re-appointed under paragraph (a) shall be regarded as one term of office for the purposes of paragraph 4(1)(b) of the Third Schedule.

(5) Notwithstanding paragraphs 4 and 5 of the Third Schedule, where the term of office of all or the majority of the members (including the chairperson) of a governing authority of a university expires by the effluxion of time during the period referred to in subsection (2), the Minister may, at the request of the governing authority of the university and if the members concerned so agree, extend the term of office of those members for such period (that is not longer than the period referred to in subsection (2)) as the Minister may determine to facilitate that governing authority to comply with that subsection.

(6) In this section—

'*Act of 2022*' means the *Higher Education Authority Act 2022*;

'relevant date' means the date on which *section 73* of the *Act of 2022* comes into operation.".

Amendment of section 33(2) of Act of 1997

79. Section 33(2) of the Act of 1997 is amended by the substitution of "the making of a statute or a regulation under section 18(2) or 25(1)" for "the making of a statute or a regulation under section 17(2) or 24(1)".

Amendment of section 34 of Act of 1997

80. Section 34 of the Act of 1997 is amended by the insertion of the following subsection after subsection (1):

"(1A) A governing authority shall, before approving a strategic development plan under this section, be satisfied that the chief officer has for the purposes of preparing the plan consulted with—

(a) the Minister,

(b) such other Ministers of the Government as the governing authority considers appropriate,

(c) An tÚdarás,

(d) the students or the Student Union of the university,

(e) the employees of the university,

(f) the academic council of the university,

(g) the education and training board in whose education and training board area the campus of the university is located or such other education and training board as the governing authority considers appropriate,

(h) a local authority (within the meaning of the Local Government Act 2001) in whose functional area the campus of the university is located, and

(i) such other body or person as the governing authority considers appropriate.".

Amendment of section 36 of Act of 1997

81. Section 36 of the Act of 1997 is amended by the insertion of the following subsection after subsection (1):

"(1A) A governing authority shall, for the purposes of preparing a statement under subsection (1), consult with—

(a) the Minister,

(b) such other Ministers of the Government as the governing authority considers appropriate,

(c) An tÚdarás,

(d) the students or the Student Union of the university,

(e) the employees of the university,

(f) the academic council of the university,

(g) the education and training board in whose education and training board area the campus of the university is located or such other education and training board as the governing authority considers appropriate,

(h) a local authority (within the meaning of the Local Government Act 2001) in whose functional area the campus of the university is located, and

(i) such other body or person as the governing authority considers appropriate.".

Amendment of section 37 of Act of 1997

82. Section 37 of the Act of 1997 is amended—

(a) by the substitution of the following subsections for subsections (1) and (2):

"(1) An tÚdarás shall, on or before the 1st day of March in each year, notify the chief officer of the funding (in this section referred to as 'allocated funding') to be provided by An tÚdarás for that year to a university, from moneys provided to An tÚdarás under *section 19* of the *Higher Education Authority Act 2022*.

(2) The chief officer shall, on or before the 1st day of April in each year, or such other date as An tÚdarás may approve, prepare and submit following approval by the governing authority, to An tÚdarás, in such form and manner as may from time to time be approved by An tÚdarás, a statement of the proposed expenditure and, other than allocated funding, the expected income of the university for that year.

(2A) The allocated funding and the expected income of the university referred to in subsection (2), shall be the budget of the university for that year.",

(b) by the substitution of the following subsections for subsection (5) and (6):

"(5) Where the chief officer of a university is of opinion that—

(a) the actual expenditure in a year, or

(b) a proposed course of action,

will or is likely to result in expenditure in excess of the budget for that year after taking account of an increase (if any) in the allocated funding under subsection (4) (in this section referred to as a 'material departure from the budget'), the chief officer shall so inform the governing authority and give reasons for his or her opinion.

(6) Where a governing authority, despite being so informed under subsection (5), decides—

(a) in the case of subsection (5)(a), not to decrease its actual expenditure, or

(b) in the case of subsection (5)(b), to proceed with its proposed course of action,

the chief officer, shall, unless he or she considers that contrary to his or her foregoing opinion a material departure from the budget will not occur, as soon as practicable, inform An tÚdarás of the decision of the governing authority.",

and

(c) in subsection (7), by the substitution of "the next succeeding year" for "the next succeeding financial year".

Amendment of Third Schedule to Act of 1997

83. The Third Schedule to the Act of 1997 is amended—

(a) in paragraph 2, by the insertion of the following subparagraph after subparagraph (2):

"(3) Whenever the chairperson of the governing authority resigns as chairperson, he or she shall at the same time cease to be a member of the governing authority.",

(b) in paragraph 3, by the substitution of the following subparagraphs for subparagraph (4):

"(4) Subject to subparagraph (5), a member of a governing authority (including the chairperson) whose term of office expires by effluxion of time shall be eligible for re-appointment as a member of the governing authority.

(5) A person, other than an *ex officio* member, who is re-appointed as a member of a governing authority in accordance with subparagraph (4) shall not hold office for a consecutive period of more than 8 years.",

(c) in paragraph 4, by the substitution of the following subparagraph for subparagraph (1):

"(1) Subject to this Schedule and section 23A, a member of a governing authority, other than an *ex officio* member—

(a) shall be appointed as such a member for such period not exceeding 4 years as the Minister or the governing authority, as the case may be, determines upon the nomination for appointment or appointment, as may be appropriate, and

(b) may not serve more than 2 consecutive terms of office.",

(d) in subparagraph (1) of paragraph 6, by the substitution of "appoint from amongst its external members (within the meaning of section 16) a member to be its deputy-chairperson" for "appoint from amongst its members a member (other than the chief officer) to be its deputy-chairperson",

(e) by the substitution of the following paragraph for paragraph 7:

"7. Where a member of the governing authority—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence in relation to a company or any other body corporate,

(e) is convicted of an offence involving fraud or dishonesty,

(f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act,

he or she shall thereupon cease to be a member of the governing authority.",

(f) in paragraph 9, by the substitution of "such remuneration (if any) and such allowances for expenses (if any)" for "such allowances for expenses",

(g) in paragraph 10—

(i) by the substitution of the following subparagraph for subparagraph (1):

"(1) A governing authority shall hold not less than 6 meetings in each year at such times as the chairperson may determine.",

and

(ii) by the substitution of the following subparagraph for subparagraph (3):

"(3) The quorum for a meeting of a governing authority shall be 7 members provided that not less than 4 of those members are external members within the meaning of section 16 (which may include the chairperson).",

and

(h) in subparagraph (c) of paragraph 11, by the substitution of "the members of the governing authority who are present shall choose one of the external members (within the meaning of section 16) to preside at the meeting" for "the members of the governing authority who are present shall choose one of their number to preside at the meeting".

Amendment of Fourth Schedule to Act of 1997

84. The Fourth Schedule to the Act of 1997 is amended—

(a) by the insertion of the following paragraphs after paragraph 2:

"2A. The chief officer may make proposals to the governing authority on any matter relating to its functions.

2B. The chief officer shall provide the governing authority with such information (including financial information) in relation to the performance of his or her functions as the governing authority may request.

2C. The governing authority may designate an employee of the university to perform the functions of the chief officer in the absence of the chief officer or where the office of chief officer is

vacant and, a member so designated, shall in such absence or upon such office being vacant, perform those functions.",

(b) by the deletion of paragraph 5, and

(c) in paragraph 7, by the substitution of "such period as the governing authority determines but the period shall not exceed 10 years from the date of the appointment of the chief officer" for "a period of 10 years".

PART 11

Amendment of Technological Universities Act 2018

Amendment of section 2 of Act of 2018

85. Section 2 of the Act of 2018 is amended by—

(a) the substitution of the following definition for the definition of "applicant technological university":

"'applicant technological university'—

(a) in Chapter 11 of Part 2, has the meaning assigned to it by section 38,

(b) in Chapter 12 of Part 2, has the meaning assigned to it by section 44A, and

(c) in any other provision of this Act, means a technological university to which paragraph (a) or (b) applies;",

and

(b) the insertion of the following definitions:

"'applicant higher education provider' has the meaning assigned to it by section 44A;

'business and operation', in relation to a higher education provider, includes—

(a) the programmes of education and training, and the programmes of research, provided by it,

(b) any land and any rights, powers and privileges related to or connected with such land owned by it or to which it is entitled,

(c) any property (other than land), including choses-in-action, owned by it or to which it is entitled,

(d) any liabilities incurred by it or other commitments entered into by it, including liabilities with regard to superannuation benefits in respect of members of its staff,

(e) the members of its staff,

(f) its body of students, and

(g) the records and data held by it;

'higher education provider' means a person or institution which provides at least one programme of education and training leading

to the award of a degree or other qualification which is at least at bachelor degree level and is included within the Framework;".

Amendment of section 3 of Act of 2018

86. Section 3 of the Act of 2018 is amended by the substitution of "an order under section 36, 43 or 44F" for "an order under section 36 or 43".

Amendment of section 7 of Act of 2018

87. Section 7 of the Act of 2018 is amended—

(a) in subsection (1), by the substitution of the following definitions for the definitions of "advisory panel" and "appointed day" respectively:

"'advisory panel'—

(a) in so far as it relates to an application under section 29, has the meaning assigned to it by section 31,

(b) in so far as it relates to an application under section 38, has the meaning assigned to it by section 40, and

(c) in so far as it relates to an application under section 44A, has the meaning assigned to it by section 44C;

'appointed day' means, as may be appropriate—

(a) in so far as it relates to an order under section 36, the day appointed by that order,

(b) in so far as it relates to an order under section 43, the day appointed by that order, and

(c) in so far as it relates to an order under section 44F, the day appointed by that order;",

and

(b) in subsection (2), by the substitution of "the campuses of a technological university, applicant institutes or an applicant higher education provider, as may be appropriate," for "the campuses of a technological university or, as the case may be, applicant institutes".

Amendment of section 8(1) of Act of 2018

88. Section 8(1) of the Act of 2018 is amended by the deletion of "and the Minister for Public Expenditure and Reform" after "with the consent of the Minister".

Amendment of section 11 of Act of 2018

89. Section 11 of the Act of 2018 is amended by the insertion of the following subsections after subsection (1):

"(1A) A governing body of a technological university shall—

(a) promote the success (including academic success) and reputation of the technological university,

(b) satisfy itself that appropriate systems, procedures and practices are in place—

(i) to perform the functions of the technological university,

(ii) for the internal performance management and accountability of the technological university in respect of—

(I) the performance of its functions, and

(II) the achievement of the objectives in the strategic development plan under section 18,

and

(iii) 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 technological university,

and

(c) establish and implement arrangements for the management of the performance of the president.

(1B) Without prejudice to the generality of subsections (1) and (1A), the governing body of a technological university shall perform the following functions with regard to the technological university:

(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 in accordance with the Act of 2012;

(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 president;

(h) manage the financial affairs of the technological university to ensure value for money and its financial viability;

(i) account to An tÚdarás for funding provided to the technological university by An tÚdarás.".

Membership of governing body of technological university

90. The Act of 2018 is amended by the substitution of the following section for section 12:

"12. (1) Subject to this Chapter, a governing body of a technological university shall consist of 19 members as determined in accordance with this Chapter.

(2) The members of a governing body shall be—

(a) a chairperson (in this section and in Schedule 1 referred to as the 'chairperson'), who shall be an external member, appointed by the governing body,

(b) 9 external members (other than the chairperson), appointed by the governing body,

(c) the president,

(d) 5 internal members (other than the president), being—

(i) 3 members of the academic staff of the technological university, elected by the academic staff of the technological university,

(ii) one member of the non-academic staff of the technological university, elected by the non-academic staff of the technological university, and

(iii) one member of the academic or non-academic staff of the technological university, elected by the academic and non-academic staff of the technological university,

and

(e) 3 student union representatives appointed by the governing body.

(3) The internal members of a governing body shall be elected for appointment as such internal members in accordance with regulations made under subsection (7).

(4) Subject to subsection (5), with regard to the appointment of external members of a governing body—

(a) 3 such members shall be nominated by the Minister, and

(b) 7 such members shall be appointed by the governing body in accordance with a process for such appointments that is determined by the governing body and approved by the Minister.

(5) Before a person is nominated for appointment or appointed, as may be appropriate, as an external member of a governing body of a technological university, the Minister or the governing body of the technological university, as the case may be, shall be satisfied that the person is suitable for appointment as such an external member by reason of his or her possessing knowledge of, and experience in, matters connected with the objects and functions of the technological university to enable him or her to make a substantial contribution to the effective and efficient performance of those functions.

(6) (a) The term of office of a member of the governing body, other than the president, shall not exceed 4 years and such a member may not serve more than 2 consecutive terms of office.

(b) A member of the governing body who is a student at the technological university shall hold office for such period, not exceeding one year, as the governing body may determine but may be re-appointed for a further period not exceeding one year.

(7) A governing body shall, with the approval of the Minister, make such regulations relating to the selection, election, nomination or appointment of members of the governing body as it thinks fit, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations.

(8) In performing functions under this section, the Minister and a governing body shall have regard to the objectives that—

(a) not less than 40 per cent of the members of the governing body shall be women and not less than 40 per cent of them shall be men,

(b) the membership of the governing body shall take account of the different locations of the campuses of the technological university, and

(c) the membership of the governing body shall broadly reflect the composition of Irish society, including persons who are competent in the Irish language.

(9) In this section—

'external member', in relation to a governing body, means a member of the governing body other than an internal member or a student member thereof or a member of the academic council of the technological university;

'internal member', in relation to a governing body, means a member of the governing body who is a member of the staff of the technological university or a person who is remunerated under a contract with the technological university;

'student member', in relation to a governing body, means a member of the governing body who is a student at the technological university.".

Transitional arrangements for membership and chairperson of governing body

91. The Act of 2018 is amended by the insertion in Chapter 3 of Part 2 of the following section after section 12 (inserted by *section 90*):

"12A. (1) A governing body of a technological university shall, as soon as practicable after the relevant date and with the approval of the Minister, determine the arrangements and procedures to be put in place by it to ensure that the composition of the governing body of the technological university complies with section 12 (inserted by *section 90* of the *Act of 2022*) within the period referred to in subsection (2).

(2) Subject to subsections (3) to (6), a governing body of a technological university shall, within 12 months of the relevant date—

(a) determine the composition of the governing body of its technological university in accordance with the arrangements and procedures put in place by it under subsection (1),

(b) appoint the members (other than the president) of the governing body accordingly, and

(c) by notice in writing, inform the Minister of the composition as so determined.

(3) (a) A person who was the chairperson of a governing body of a technological university on the relevant date may continue after that date to be the chairperson of the governing body of that technological university until his or her membership of the governing body ceases, provided that he or she is an external

member within the meaning of section 12 (inserted by *section 90* of the *Act of 2022*).

(b) For the purposes of paragraph (a), a term served by a person referred to in that paragraph as a member of the governing body, but not as chairperson thereof, before the commencement referred to in that paragraph shall be disregarded for the purposes of subsection (6)(a) of section 12 (inserted by *section 90* of the *Act of 2022*).

(4) A person (other than the president) who was appointed as a member (including the chairperson) of the governing body before the relevant date and who is re-appointed as such member pursuant to subsection (2)(b)—

(a) shall be so re-appointed for a term of office of no longer than the unexpired term for which he or she was so appointed, and

(b) the term of office served by the member (including the chairperson) immediately before the relevant date and the term of office for which he or she is re-appointed under paragraph (a) shall be regarded as one term of office for the purposes of subsection (6)(a) of section 12 (inserted by *section 90* of the *Act of 2022*).

(5) (a) Nothing in this section shall operate to terminate the term of office of a member of a governing body of a technological university who was, before the relevant date, appointed or elected as such member under section 55 if he or she wishes to serve the unexpired term for which he or she was so appointed or elected and notwithstanding that he or she is not re-appointed as such member pursuant to subsection (2)(b).

(b) A member of a governing body of a technological university referred to in paragraph (a) shall not be reckoned in the number of members of a governing body of a technological university specified in section 12 (inserted by *section 90*) during any part of his or her term of membership of the governing body which, but for this subsection, would have ceased.

(6) Notwithstanding section 12(6) and paragraph 4 of Schedule 1, where the term of office of all or the majority of the members of a governing body (including the chairperson thereof) of a technological university expires by the effluxion of time during the period referred to in subsection (2), the Minister may, at the request of the governing body of the technological university and if the members concerned so agree, extend the term of office of those members for such period (that is not longer than the period referred to in subsection (2)) as the Minister may determine to facilitate that governing body to comply with that subsection.

(7) In this section—

'*Act of 2022*' means the *Higher Education Authority Act 2022*;

'relevant date' means the date on which *section 90* of the *Act of 2022* comes into operation.".

Amendment of section 18 of Act of 2018

92. Section 18 of the Act of 2018 is amended by the insertion of the following subsection after subsection (3):

"(3A) The president shall, for the purposes of preparing a strategic development plan under subsection (1)(c), consult with—

(a) the Minister,

(b) such other Ministers of the Government as the president considers appropriate,

(c) An tÚdarás,

(d) the students or the student union of the technological university,

(e) the members of the staff of the technological university or the trades unions or staff associations of those members of staff,

(f) the academic council of the technological university,

(g) the education and training board or boards in whose education and training board area or areas the campuses of the technological university are located or such other education and training board as the governing body considers appropriate,

(h) a local authority in whose functional area the campuses of the technological university are located, and

(i) such other body or person as the president considers appropriate.".

Amendment of section 19 of Act of 2018

93. Section 19 of the Act of 2018 is amended by the insertion of the following subsection after subsection (2):

"(2A) The president shall, for the purposes of preparing an equality statement, consult with—

(a) the Minister,

(b) such other Ministers of the Government as the president considers appropriate,

(c) An tÚdarás,

(d) the students or the student union of the technological university,

(e) the members of the staff of the technological university or the trades unions or staff associations of those members of staff,

(f) the academic council of the technological university,

(g) the education and training board or boards in whose education and training board area or areas the campuses of the technological university are located or such other education and training board as the governing body considers appropriate,

(h) a local authority in whose functional area the campuses of the technological university are located, and

(i) such other body or person as the president considers appropriate.".

Amendment of section 22(3) of Act of 2018

94. Section 22(3) of the Act of 2018 is amended by the insertion of "and An tÚdarás" after "the technological university shall furnish to the Minister".

Amendment of section 25 of Act of 2018

95. Section 25 of the Act of 2018 is amended—

(a) in subsection (3), by—

(i) the substitution of "Subject to subsection (3A), a technological university" for "A technological university", and

(ii) the deletion of ", with the consent of the Minister and the Minister for Public Expenditure and Reform",

and

(b) by the insertion of the following subsection after subsection (3):

"(3A) A technological university shall obtain the consent of the Minister and the Minister for Public Expenditure and Reform if the company concerned referred to in subsection (3) is formed for purposes other than the manufacture or development of a product, service or process, or the creation and use of intellectual property connected therewith for commercial purposes, arising from the conduct of research or the undertaking of innovation activity by the technological university.".

Review of matter and report by governing body of technological university

96. The Act of 2018 is amended by the insertion of the following section after section 27:

"27A. (1) If a governing body has concerns regarding a matter relating to the governance, or the performance of the functions of the technological university, the governing body shall arrange for a review of the matter to be undertaken.

(2) A governing body 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 the governing body, the president and the members of the staff of the technological university and the governing body, the president and the members of staff of the technological university 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 made arising therefrom and shall provide a copy of the report to the governing body and the president.

(5) A governing body 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) A governing body 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 the governing body under that subsection, including any measures taken under subsection (5).".

Joint application of higher education provider and technological university

97. The Act of 2018 is amended by the insertion in Part 2 of the following Chapter after Chapter 11:

"Chapter 12

Joint application of higher education provider and technological university

Application for order under section 44F

44A. (1) One, and only one, higher education provider (in this Chapter referred to as an 'applicant higher education provider') and a technological university (in this Chapter referred to as an 'applicant technological university') may jointly apply to the Minister for an order under section 44F.

(2) The Minister shall not consider more than one application under this section by a particular technological university at any one time.

(3) An application under this section may relate to a part only of the business and operation of an applicant higher education provider that is specified in the application.

(4) An application under this section shall be in writing in such form, including electronic form, as may be directed by the Minister.

Requirements on application under section 44A

44B. An application under section 44A shall include information—

(a) demonstrating the capability of the applicant higher education provider and applicant technological university to jointly perform the functions of a technological university,

(b) demonstrating that plans and arrangements are in place for managing academic, financial and administrative matters arising on the making of an order under section 44F, and

(c) to enable the Minster and advisory panel to consider the matters referred to in section 44D.

Advisory panel for purposes of application under section 44A

44C. (1) The Minister, within 30 days of the receipt of an application under section 44A, shall forward the application to An tÚdarás with a direction in writing to appoint an advisory panel under subsection (2).

(2) Within 60 days of the receipt of a direction under subsection (1), An tÚdarás shall appoint a panel of at least 3 persons having a special interest or expertise in, or knowledge of, matters relating to higher education, at least one of whom shall have expertise, at an international level, in standards and practice in higher education (in this Chapter referred to as an 'advisory panel'), to assess the application under section 44A.

(3) Within 120 days of being appointed, the advisory panel, having assessed the application under section 44A, and having had regard

to the matters referred to in section 44D, shall furnish a report to the Minister and An tÚdarás with a recommendation whether to make an order under section 44F.

(4) For the purposes of its assessment and report under this section, the advisory panel may consult with the applicant higher education provider, the applicant technological university, An tÚdarás, the Qualifications and Quality Assurance Authority of Ireland, and any other person or body it considers appropriate.

Matters to which Minister shall have regard on application under section 44A

44D. (1) The Minister shall, for the purposes of subsection (2), have regard to such of the following matters as respects the applicant higher education provider as the Minister considers appropriate:

(a) whether the applicant higher education provider has been established and is operated for the principal purposes of higher education, training and research;

(b) the number of programmes of education and training provided by the applicant higher education provider which lead to education awards that are included within the Framework;

(c) whether the applicant higher education provider has a good track record in relation to performance in the field of education and has provided programmes referred to in paragraph (b) in the State for such period before the application under section 44A as the Minister considers appropriate in order to demonstrate that performance;

(d) whether the level of qualifications of the academic staff of the applicant higher education provider are at a sufficiently high level to provide the programmes of education and training which it provides;

(e) whether the applicant higher education provider has integrated, coherent and effective governance structures in place concerning academic, administrative, financial and management matters;

(f) whether the applicant higher education provider—

(i) has, under section 28 of the Act of 2012, established procedures in writing for quality assurance in relation to which the Qualifications and Quality Assurance Authority of Ireland—

(I) has approved those procedures under the Act of 2012,

(II) has not proposed by notice under section 36(1) of that Act to withdraw that approval, and

(III) has not withdrawn that approval under section 36 of that Act,

or

(ii) if the applicant higher education provider is a linked provider within the meaning of the Act of 2012, has, under section 28 of that Act, established procedures in writing for quality assurance in relation to which a relevant designated awarding body within the meaning of that Act—

(I) has approved those procedures under the Act of 2012,

(II) has not proposed by notice under section 39(1) of that Act to withdraw that approval, and

(III) has not withdrawn that approval under section 39 of that Act;

(g) whether the applicant higher education provider is financially viable and has sufficient financial resources available, should an order be made under section 44F, to meet any projected costs arising as a result of the application under section 44A and to continue to provide education for such period as may be specified in that application;

(h) the outcome of the due diligence processes undertaken in relation to the applicant higher education provider for the purposes of the application under section 44A to assess the appropriateness of an order being made under section 44F;

(i) the arrangements proposed for the business and operation or, as the case may be, a part of the business and operation of the applicant higher education provider to become and form part of the applicant technological university;

(j) such other matters as may be determined by the Minister in consultation with An tÚdarás.

(2) In deciding whether to make an order under section 44F, the Minister shall, in addition to the matters to which he or she had regard under subsection (1), have regard to the following matters:

(a) if the needs of students, business, enterprise, the professions, the community, local interests and other related stakeholders in the region in which the campuses of the applicant higher education provider and applicant technological university are located would be more efficiently and effectively served if the order were made;

(b) if the projected demand, based on demographic trends, for higher education in the region in which the campuses of the applicant higher education provider and applicant technological university are located, would justify the making of the order;

(c) if sufficient financial resources are available to the applicant higher education provider and applicant technological university to meet the projected costs arising on the making of the order;

(d) if the applicant higher education provider and the applicant technological university would together be financially viable if the order were made;

(e) if making the order would comply with such policies of the Government as relate to higher education.

(3) In this section, 'level', in relation to qualifications, means included at the level concerned within the Framework.

Decision on application under section 44A

44E. (1) Within 60 days of receiving the report under section 44C(3), the Minister, having considered the application and information under sections 44A and 44B and the report and recommendation under section 44C, and having had regard to the matters referred

to in section 44D, and consulted with An tÚdarás, shall, by notice in writing, inform the applicant higher education provider and applicant technological university of his or her proposed decision and shall in the notice provide reasons for the proposed decision.

(2) A notice under subsection (1) shall state that the applicant higher education provider and applicant technological university may make representations to the Minister in relation to the proposed decision not later than 30 days after service of the notice.

(3) The Minister shall consider any representations made under subsection (2) before deciding to—

(a) make an order under section 44F, or

(b) refuse to make an order under section 44F.

(4) The Minister shall give notice in writing to the applicant higher education provider and applicant technological university of a decision under subsection (3) as soon as practicable after it is made, which shall, in relation to a decision under subsection (3)(b)—

(a) include reasons for the decision,

(b) inform the applicant higher education provider and applicant technological university that—

(i) they may jointly, under Part 3, appeal the decision within 30 days of the date of the notice, and

(ii) the notice of appeal shall specify the grounds for the appeal,

and

(c) inform the applicant higher education provider and applicant technological university that the decision shall be suspended until—

(i) the decision becomes final under subsection (5), or

(ii) subject to subsection (6), the disposal of an appeal under Part 3.

(5) If, on the expiration of the period of 30 days beginning on the date of the notice under subsection (4), no appeal under Part 3 is made, the decision of the Minister under subsection (3)(b) is final.

(6) If, following an appeal of a decision under subsection (3)(b), the appeals board orders the Minister under section 46(5)(b) to reconsider the decision, that decision is suspended until it has been reconsidered by the Minister.

Order for business and operation of higher education provider or part thereof to become and form part of technological university

44F. (1) The Minister, following a decision under section 44E(3)(a), shall by order appoint a day (in this Chapter referred to as the 'appointed day') for the purposes of subsection (2).

(2) On the appointed day, the business and operation of the applicant higher education provider shall become and form part of the applicant technological university or, if the application under section 44A for an order under this section relates to a part only of that business and operation, that part of the business and

operation of the applicant higher education provider shall become and form part of the applicant technological university on that day.

(3) An order under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the order.

(4) The applicant higher education provider shall arrange with the applicant technological university for the transfer, with effect from the appointed day, of its business and operation or that part of its business and operation, as the case may be, to the applicant technological university consequent upon the making of an order under this section.

(5) Other than in cases where a part only of the business and operation of an applicant higher education provider is the subject of an order under this section, references in any enactment (other than this Act) to the applicant higher education provider specified in an order under this section shall, on and after the appointed day, be construed as references to the applicant technological university which jointly applied, with that applicant higher education provider, for an order under this section.".

Amendment of section 45(1) of Act of 2018

98. Section 45(1) of the Act of 2018 is amended by the insertion of "and an applicant higher education provider and applicant technological university may appeal a decision under section 44E(3)(b)" after "appeal a decision under section 42(3)(b)".

Amendment of section 47 of Act of 2018

99. Section 47 of the Act of 2018 is amended by—

(a) the substitution of the following definition for the definition of "appointed day":

"'appointed day' means, as may be appropriate—

(a) in so far as it relates to an order under section 36, the day appointed by that order,

(b) in so far as it relates to an order under section 43, the day appointed by that order, and

(c) in so far as it relates to an order under section 44F, the day appointed by that order;",

and

(b) the substitution of the following definition for the definition of "technological university":

"'technological university' means, as may be appropriate—

(a) in so far as it relates to an order under section 36, a technological university established by that order,

(b) in so far as it relates to an order under section 43, the technological university to which, under section 44(1) and this

Part, the functions of the applicant college specified in the order are transferred, and

(c) in so far as it relates to an order under section 44F, the technological university as respects which the business and operation, or a part thereof, of the applicant higher education provider specified in the order became and formed part of it under that section.".

Amendment of section 59 of Act of 2018

100. Section 59 of the Act of 2018 is amended by—

(a) the insertion of the following paragraph after paragraph (a):

"(aa) made by the dissolved body as a designated awarding body for the purposes of the Act of 2012,",

(b) the designation of that section (as amended by *paragraph (a)*) as subsection (1), and

(c) the addition of the following subsections:

"(2) Subject to subsection (3), every programme of education and training included in the business and operation of the applicant higher education provider the subject of an order under section 44F, that immediately before the day appointed by that order was provided by the applicant higher education provider and led to an award—

(a) made by the Qualifications and Quality Assurance Authority of Ireland under section 50 of the Act of 2012,

(b) made by a relevant designated awarding body within the meaning of the Act of 2012 pursuant to an arrangement under section 2(3) of that Act with the applicant higher education provider as a linked provider within the meaning of that Act, or

(c) made by the applicant higher education provider in accordance with the authority delegated to that provider by the Qualifications and Quality Assurance Authority of Ireland under section 53 of the Act of 2012,

shall, on the appointed day, become and be a programme of education and training provided by the technological university in respect of which the order under section 44F is made that leads to an award made by that technological university.

(3) A technological university in respect of which an order under section 44F is made may, with the approval of the Minister, determine in respect of programmes of education and training referred to in subsection (2) to which paragraph (b) of that subsection applies that the relevant designated awarding body concerned may continue, after the appointed day, to make awards in respect of those programmes to students who are enrolled in those programmes immediately before that day.".

Amendment of section 60 of Act of 2018

101. Section 60 of the Act of 2018 is amended—

(a) in subsection (3), by the substitution of "in respect of which the order is made shall, on the date that is 12 months after the appointed day, be deemed to have been withdrawn under section 63 of the Act of 2012, unless before that date the technological university applies for and is authorised to continue to use the international education mark" for "in respect of which the order is made shall, on the appointed day, be withdrawn under section 63 of the Act of 2012",

(b) by the insertion of the following subsections after subsection (3):

"(3A) Where, immediately before the day appointed by order under section 44F, both a higher education provider and a technological university were authorised by the Qualifications and Quality Assurance Authority of Ireland to use the international education mark under section 61 of the Act of 2012, the technological university, in respect of which the order is made shall, on and after that day—

(a) comply with any condition, imposed under section 61(8)(b) of the Act of 2012, to which the authorisation of the higher education provider is subject,

(b) continue to comply with any condition imposed under that section 61(8)(b) of that Act to which its authorisation is subject,

(c) be liable to pay the annual charge under section 62 of the Act of 2012 in respect of the authorisation of the higher education provider, and

(d) continue to be liable to pay the annual charge in respect of its authorisation under that section 62 of that Act.

(3B) Where, immediately before the day appointed by order under section 44F, a technological university was authorised by the Qualifications and Quality Assurance Authority of Ireland to use the international education mark under section 61 of the Act of 2012 but the applicant higher education provider was not so authorised, the authorisation of the technological university, in respect of which the order is made shall, on the date that is 12 months after the appointed day, be deemed to have been withdrawn under section 63 of the Act of 2012, unless before that date the technological university applies for and is authorised to continue to use the international education mark.

(3C) A technological university referred to in subsection (3) or (3B) may, in accordance with each of those subsections, apply to the Qualifications and Quality Assurance Authority of Ireland for authorisation for its continued use of the international education mark under section 61 of the Act of 2012 and that section shall, with any necessary modifications, apply to such an application as it applies to an application for authorisation to use the international education mark.",

and

(c) in subsection (4), by the addition of the following paragraph after paragraph (b):

"(c) For the purposes of subsection (3A), the liability date shall be the anniversary of the appointed day and on the first such liability date the technological university concerned shall pay any portion of the annual charge remaining unpaid by the higher education provider on the appointed day.".

Amendment of section 61 of Act of 2018

102. Section 61 of the Act of 2018 is amended by the addition of the following subsection:

"(3) On the day appointed by order under section 44F—

(a) any procedures for quality assurance under section 28 of the Act of 2012 standing established immediately before that day shall—

(i) where they were established by the applicant higher education provider, no longer apply, and

(ii) where they were established by the technological university, in respect of which the order is made, continue to apply,

and

(b) any procedures for access, transfer and progression in relation to learners standing established, immediately before that day, under section 56 of the Act of 2012 shall—

(i) where they were established by the applicant higher education provider, no longer apply, and

(ii) where they were established by the technological university, in respect of which the order is made, continue to apply.".

Amendment of section 62 of Act of 2018

103. Section 62 of the Act of 2018 is amended by the addition of the following subsection:

"(3) Where an order has been made under section 44F, and a process that may result in the suspension or dismissal of a member of staff of the applicant higher education provider specified in the order has, before the appointed day, been commenced but not completed immediately before that day in accordance with procedures made or conditions determined by that applicant higher education provider, the process may, on or after that day, be continued by the technological university under procedures made or conditions determined by it, and the technological university may suspend or dismiss the member of staff in accordance with such procedures and conditions.".

Amendment of Schedule 1 to Act of 2018

104. Schedule 1 to the Act of 2018 is amended—

(a) in paragraph 2(2), by the insertion of "such remuneration (if any) and" after "other than the president,", and

(b) in paragraph 6(1), by the insertion of "(including committees relating to audit and risk management functions)" after "The governing body may establish committees".

Application deemed to be made under Chapter 12 of Part 2 of Act of 2018 in certain circumstances

105. If, at any time before the coming into operation of Chapter 12 of Part 2 of the Act of 2018 (inserted by *section 97*), an application is made to the

Minister jointly by a higher education provider and a technological university on an administrative basis in accordance with the requirements of that Chapter—

(a) the application shall be deemed to have been made under that Chapter by an applicant higher education provider and an applicant technological university (both within the meaning of the Act of 2018) as if that Chapter were in operation and that Chapter shall apply accordingly, and

(b) at any time after the coming into operation of that Chapter, the Minister may, if he or she is satisfied that the requirements of that Chapter have been complied with as respects that application and the assessment and consideration thereof, make or, as may be appropriate, refuse to make an order under section 44F of the Act of 2018 accordingly.

PART 12

Amendment of Regional Technical Colleges Act 1992 and Regional Technical Colleges (Amendment) Act 1994

Amendment of section 2 of Act of 1992

106. Section 2 of the Act of 1992 is amended by the insertion of the following definitions:

"'regulations of the college', in relation to a college, means rules made by the governing body of the college under paragraph 12 of the Second Schedule;

'student', in relation to a college, means a person registered as a student by the college or a full-time officer of the student union who was first elected or appointed to his or her office while he or she was registered as a student by the college;

'student union', in relation to a college, means the student union or other student representative body recognised by the college;".

Amendment of section 3(5) of Act of 1992

107. Section 3(5) of the Act of 1992 is amended by the substitution of "and may be sued in its corporate name and may, with the consent of the Minister, acquire, hold and dispose of land, an interest in land or any other property" for "and be sued in its corporate name and to acquire, hold and dispose of land".

Amendment of section 5(1) of Act of 1992

108. Section 5(1) of the Act of 1992 is amended by the substitution of the following paragraph for paragraph (i):

"(i) subject to the consent of the Minister to acquire, hold and dispose of land, an interest in land or any other property;".

Governing bodies of colleges

109. The Act of 1992 is amended by the substitution of the following section for section 6:

"6. (1) A college shall have a governing body established under this Act to perform the functions conferred on the college by this Act.

(2) The Second Schedule shall apply to a governing body.

(3) Subject to this Act, a governing body shall consist of 19 members as determined in accordance with this section.

(4) The members of a governing body shall be—

(a) a chairperson (in this section and in the Second Schedule referred to as the 'chairperson'), who shall be an external member, appointed by the governing body,

(b) 9 external members (other than the chairperson), appointed by the governing body,

(c) the Director,

(d) 5 internal members (other than the Director), being—

(i) 3 members of the academic staff of the college, elected by the academic staff of the college,

(ii) one member of the non-academic staff of the college, elected by the non-academic staff of the college, and

(iii) one other internal member of the college,

and

(e) 3 student union representatives appointed by the governing body.

(5) The internal members of a governing body shall be elected or selected for appointment as such internal members in accordance with regulations made under subsection (9).

(6) Subject to subsection (7), with regard to the appointment of external members of a governing body—

(a) 3 such members shall be nominated by the Minister, and

(b) 7 such members shall be appointed by the governing body in accordance with a process for such appointments that is determined by the governing body and approved by the Minister.

(7) Before a person is nominated for appointment or appointed, as may be appropriate, as an external member of a governing body of a college, the Minister or the governing body of the college, as the case may be, shall be satisfied that the person is suitable for appointment as such an external member by reason of his or her possessing knowledge of, and experience in, matters connected with the functions of the college to enable him or her to make a substantial contribution to the effective and efficient performance of those functions.

(8) (a) The term of office of a member of the governing body, other than the Director, shall not exceed 4 years and such a member may not serve more than two consecutive terms of office.

(b) A member of the governing body who is a student at the college shall hold office for such period, not exceeding one year, as the

governing body may determine but may be re-appointed for a further period not exceeding one year.

(9) A governing body shall, with the approval of the Minister, make such regulations of the college relating to the selection, election, nomination or appointment of members of the governing body as it thinks fit, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations.

(10) In performing functions under this section, the Minister and a governing body shall have regard to the objectives that—

(a) not less than 40 per cent of the members of the governing body shall be women and not less than 40 per cent of them shall be men,

(b) the membership of the governing body shall take account of the region served by the college, and

(c) the membership of the governing body shall broadly reflect the composition of Irish society, including persons who are competent in the Irish language.

(11) In this section—

'external member', in relation to a governing body, means a member of the governing body other than an internal member or a student member thereof or a member of the academic council of the college;

'internal member', in relation to a governing body, means a member of the governing body who is a member of the staff of the college or a person who is remunerated under a contract with the college;

'student member', in relation to a governing body, means a member of the governing body who is a student at the college.".

Transitional arrangements for membership and chairperson of governing bodies

110. The Act of 1992 is amended by the insertion of the following section after section 6 (inserted by *section 109*):

"6A. (1) A governing body of a college shall, as soon as practicable after the relevant date and with the approval of the Minister, determine the arrangements and procedures to be put in place by it to ensure that the composition of the governing body of the college complies with section 6 (inserted by *section 109* of the *Act of 2022*) within the period referred to in subsection (2).

(2) Subject to subsections (3) to (5), a governing body of a college shall, within 12 months of the relevant date—

(a) determine the composition of the governing body of its college in accordance with the arrangements and procedures put in place by it under subsection (1),

(b) appoint the members (other than the Director) of the governing body accordingly, and

(c) by notice in writing, inform the Minister of the composition as so determined.

(3) (a) A person who was the chairman of a governing body of a college on the relevant date may continue after that date to be the chairperson of the governing body of that college until his or her membership of the governing body ceases, provided that he or she is an external member within the meaning of section 6 (inserted by *section 109* of the *Act of 2022*).

(b) For the purposes of paragraph (a), a term served by a person referred to in that paragraph as a member of the governing body, but not as chairman thereof, before the commencement referred to in that paragraph shall be disregarded for the purposes of subsection (8)(a) of section 6 (inserted by *section 109* of the *Act of 2022*).

(4) A person (other than the Director) who was appointed as a member (including the chairman) of the governing body before the relevant date and who is re-appointed as such member pursuant to subsection (2)(b)—

(a) shall be so re-appointed for a term of office of no longer than the unexpired term for which he or she was so appointed, and

(b) the term of office served by the member (including the chairman) immediately before the relevant date and the term of office for which he or she is re-appointed under paragraph (a) shall be regarded as one term of office for the purposes of subsection (8)(a) of section 6 (inserted by *section 109* of the *Act of 2022*).

(5) Notwithstanding section 6(8) and paragraph 4 of the Second Schedule, where the term of office of all or the majority of the members of a governing body (including the chairman thereof) of a college expires by the effluxion of time during the period referred to in subsection (2), the Minister may, at the request of the governing body of the college and if the members concerned so agree, extend the term of office of those members for such period (that is not longer than the period referred to in subsection (2)) as the Minister may determine to facilitate that governing body to comply with that subsection.

(6) In this section—

'*Act of 2022*' means the *Higher Education Authority Act 2022*;

'relevant date' means the date on which *section 109* of the *Act of 2022* comes into operation.".

Amendment of section 7 of Act of 1992

111. Section 7 of the Act of 1992 is amended—

(a) by the insertion of the following subsections after subsection (1):

"(1A) The governing body of a college 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 aims in the strategic development plan under section 21C,

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.

(1B) Without prejudice to the generality of subsections (1) and (1A), the governing body of a college 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 in accordance with the Qualifications and Quality Assurance (Education and Training) Act 2012;

(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.",

and

(b) in subsection (6), by the substitution of "a committee of the governing body established under paragraph 6 of the Second Schedule" for "a committee".

Amendment of section 21C of Act of 1992

112. Section 21C of the Act of 1992 is amended by the insertion of the following subsection after subsection (1):

"(1A) A governing body shall, for the purposes of preparing a strategic development plan, consult with—

(a) the Minister,

(b) such other Ministers of the Government as the governing body considers appropriate,

(c) An tÚdarás,

(d) the students or the student union of the college,

(e) the members of the staff of the college or the trades unions or staff associations of those members of staff,

(f) the academic council of the college,

(g) the education and training board in whose education and training board area the campus of the college is located or such other education and training board as the governing body considers appropriate,

(h) a local authority in whose functional area the campus of the college is located, and

(i) such other body or person as the governing body considers appropriate.".

Amendment of section 21D of Act of 1992

113. Section 21D of the Act of 1992 is amended by the insertion of the following subsection after subsection (1):

"(1A) A governing body shall, for the purposes of preparing a statement under subsection (1), consult with—

(a) the Minister,

(b) such other Ministers of the Government as the college considers appropriate,

(c) An tÚdarás,

(d) the students or the student union of the college,

(e) the members of the staff of the college or the trades unions or staff associations of those members of staff,

(f) the academic council of the college,

(g) the education and training board in whose education and training board area the campus of the college is located or such other education and training board as the governing body considers appropriate,

(h) a local authority in whose functional area the campus of the college is located, and

(i) such other body or person as the governing body considers appropriate.".

Review of matter and report by governing body of college

114. The Act of 1992 is amended by the insertion of the following section after section 21F:

"21G. (1) If a governing body has concerns regarding a matter relating to the governance, or the performance of the functions of the college, the governing body shall arrange for a review of the matter to be undertaken.

(2) A governing body 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 the governing body, the Director and the members of the staff of the college and the governing body, the Director and the members of the staff of the college 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 made arising therefrom and shall provide a copy of the report to the governing body and the Director.

(5) A governing body 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) A governing body 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 the governing body under that subsection, including any measures taken under subsection (5).".

Amendment of Second Schedule to Act of 1992

115. (1) The Act of 1992 is amended by the substitution of the following Schedule for the Second Schedule:

"SECOND SCHEDULE

Section 6

The Governing Body

1. (1) The governing body shall retain in its possession a seal of the college.

(2) The seal of the college shall be authenticated by the signature of the chairperson or a member of the governing body authorised by the governing body to act in that behalf and by the signature of an officer of the college authorised to act in that behalf.

(3) Judicial notice shall be taken of the seal and any document purporting to be an instrument made by, and sealed with the seal of, the college shall, unless the contrary is shown, be received in evidence and taken to be such an instrument without further proof.

2. (1) A member of the governing body, other than the Director, shall, subject to the provisions of this Act, hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the Minister, with the consent of the Minister for Public Expenditure and Reform.

(2) There may be paid by the governing body to its members, other than the Director, such remuneration (if any) and such allowances for expenses (if any) as the Minister, with the approval of the Minister for Public Expenditure and Reform, may determine.

3. (1) A member of the governing body, other than the Director, may resign from office by giving notice in writing to the chairperson (or if the member concerned is the chairperson, to the Director) of his or her resignation and the resignation shall take effect on

the day when the chairperson, or as the case may be, the Director receives the notice.

(2) Where the chairperson of the governing body resigns as chairperson he or she shall at the same time cease to be a member of the governing body.

(3) The governing body may at any time remove from office a member of the governing body if, in the opinion of the governing body—

(a) the member has become incapable through ill-health of performing his or her functions,

(b) the member has committed stated misbehaviour, or

(c) the removal of the member appears to be necessary for the effective performance by the governing body of its functions.

(4) A member of the governing body shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence in relation to a company or any other body corporate,

(e) is convicted of an offence involving fraud or dishonesty,

(f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

4. (1) If a member of the governing body, other than the Director, dies, resigns, ceases to be qualified for or ceases, for any reason, to be a member of the governing body, the governing body may appoint a person to fill the casual vacancy.

(2) A person appointed to be a member of the governing body pursuant to subparagraph (1)—

(a) shall be representative of the person, referred to in paragraph (a), (b), (d) or (e) of section 6(4), who occasioned the casual vacancy,

(b) shall hold office for so much of the term of office of the member who occasioned the casual vacancy concerned as remains unexpired at the date of the appointment, and

(c) shall be eligible for re-appointment as a member of the governing body on the expiry of that term of office.

5. (1) The governing body shall hold not less than 6 meetings in every 12 month period and such and so many additional meetings as may be necessary, as determined by the chairperson, for the due fulfilment of its functions.

(2) The chairperson shall convene a meeting of the governing body when requested to do so by not less than the number of members that constitutes a quorum.

(3) The quorum for a meeting of the governing body shall be set by the governing body at its first meeting and may be amended from time to time in accordance with standing orders under paragraph 11.

(4) At a meeting of the governing body it shall appoint from amongst its members a member (other than the Director) to be its deputy-chairperson and the deputy-chairperson shall, unless he or she sooner resigns as deputy-chairperson, hold office until he or she ceases to be a member of the governing body.

(5) At a meeting of the governing body—

(a) the chairperson shall, if present, be the chairperson of the meeting,

(b) if and so long as the chairperson is not present or if the office of chairperson is vacant, the deputy-chairperson, if present, shall be chairperson of the meeting, and

(c) if and so long as the chairperson is not present or the office of chairperson is vacant, and the deputy-chairperson is not present or the office of deputy-chairperson is vacant, the members of the governing body who are present shall choose one of their number to be chairperson of the meeting.

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

(7) Subject to subparagraph (3), the governing body may act notwithstanding one or more vacancies among its members.

(8) The governing body may hold or continue a meeting by the use of any means of communication by which all the members can hear and be heard at the same time (in this Schedule referred to as an 'electronic meeting').

(9) A member of the governing body who participates in an electronic meeting is taken for all purposes to have been present at the meeting.

6. (1) The governing body may establish committees (including committees relating to audit and risk management functions), consisting in whole or in part of persons who are members of the governing body or members of staff of the college to assist and advise it in relation to the performance of any of its functions.

(2) In appointing members of a committee established under this paragraph, the governing body shall have regard to—

(a) the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and

(b) the objective that not less than 40 per cent of members of the committee shall be women and not less than 40 per cent of them shall be men.

(3) The governing body may pay to members of a committee established under this paragraph such expenses incurred by them as the governing body may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine.

(4) The governing body may remove a member of a committee established under this paragraph from the committee at any time.

(5) The acts of a committee shall be subject to confirmation by the governing body, unless the governing body otherwise determines.

(6) The governing body may determine the terms of reference and regulate the procedure of a committee established under this paragraph.

(7) The governing body may appoint a person to be chairperson of a committee established under this paragraph.

(8) A committee shall provide the governing body with such information as the governing body may from time to time require, in respect of the activities and operations of the committee, for the purposes of the performance by the governing body of its functions.

(9) The governing body may at any time dissolve a committee established under this paragraph.

7. (1) Where a member of the governing body is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the governing body.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a member of the European Parliament shall be disqualified, while he or she is so entitled or is such a member, from being a member of the governing body or a member of a committee established under paragraph 6.

8. (1) Subparagraph (2) applies where, at a meeting of the governing body, any of the following matters arise, namely—

(a) an arrangement to which the governing body is a party,

(b) an arrangement to which the governing body proposes to become a party,

(c) a contract or other agreement with the governing body, or

(d) a proposed contract or other agreement with the governing body.

(2) A member of the governing body present at the meeting referred to in subparagraph (1) who has a pecuniary interest or other beneficial interest in, or material to, the matter concerned shall—

(a) disclose to the governing body at the meeting the fact of that interest and its nature,

(b) not influence (or seek to influence) a decision to be made in relation to the matter,

(c) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,

(d) take no part in any deliberation of the governing body relating to the matter, and

(e) not vote on a decision relating to the matter.

(3) Where an interest is disclosed pursuant to this paragraph, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member of the governing body by whom the disclosure is made shall not be counted in the quorum for the meeting.

(4) Where, at a meeting of the governing body, a question arises as to whether or not a course of conduct, if pursued by a member of the governing body, would constitute a failure by him or her to comply with the requirements of subparagraph (2), the question may, subject to subparagraph (5), be determined by the chairperson of the meeting, whose decision shall be final, and where the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(5) Where, at a meeting of the governing body, the chairperson of the meeting is the member in respect of whom a question to which subparagraph (4) applies falls to be determined, the other members of the governing body attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

9. Paragraph 8 shall apply to a member of a committee established under paragraph 6 where the member is not also a member of the governing body and for the purposes of that application—

(a) a reference to a member of the governing body shall be construed as reference to a member of the committee, and

(b) a reference to the governing body shall be construed as reference to the committee.

10. (1) A person shall not disclose confidential information obtained by him or her while performing functions as—

(a) a member of or an adviser or consultant to the governing body, or a member of the staff of such an adviser or consultant, or

(b) a member of a committee established under paragraph 6,

unless he or she is authorised by the governing body to so do.

(2) A person who contravenes subparagraph (1) commits an offence.

(3) Nothing in this paragraph shall prevent the disclosure of information—

(a) in a report made to the governing body,

(b) by or on behalf of the governing body to the Minister,

(c) by a member of the governing body to the Minister, or

(d) by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995.

(4) In this paragraph, 'confidential information' includes—

(a) information that is expressed by the governing body to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) information relating to proposals of a commercial nature or tenders submitted to the governing body by contractors, consultants or any other person.

11. Subject to this Act, the governing body shall regulate, by standing orders or otherwise, its procedure and business.

12. Subject to this Act, the governing body may make, amend or revoke rules (in this Act called 'regulations of the college') as it thinks fit for the conduct of the affairs of the college.".

(2) Any standing orders for the regulation of its procedure and business, or regulations for the conduct of the affairs of a college, made under the Second Schedule to the Act of 1992 and in being immediately before the coming into operation of the amendment of that Second Schedule under *subsection (1)*, shall continue in being after that coming into operation and may be amended or revoked as if made under that Second Schedule as amended under *subsection (1)*.

Amendment of section 2(1) of Regional Technical Colleges (Amendment) Act 1994

116. Section 2(1) of the Regional Technical Colleges (Amendment) Act 1994 is amended by the substitution of "after considering the final report within the meaning of *section 68* of the *Higher Education Authority Act 2022* of a review carried out under that section" for "after considering the report of an inspector under section 20 of the Principal Act".

PART 13

Amendment of National College of Art and Design Act 1971

Amendment of section 1(1) of Act of 1971

117. Section 1(1) of the Act of 1971 is amended—

(a) by the substitution of the following definition for the definition of "student of the College":

"'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;",

and

(b) by the insertion of the following definitions:

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

'An tÚdarás' means An tÚdarás um Ard-Oideachas;

'student union of the College' means the student union or other student representative body recognised by the College.".

Amendment of section 4(2) of Act of 1971

118. Section 4(2) of the Act of 1971 is amended by the substitution of "may, with the consent of the Minister, acquire, hold and dispose of land, an interest in land or other property" for "to acquire, hold and dispose of land".

Amendment of section 5 of Act of 1971

119. Section 5 of the Act of 1971 is amended—

(a) by the insertion of the following subsections after subsection (2):

"(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.

(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.",

and

(b) by the insertion of the following subsections after subsection (3):

"(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.

(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.

(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.".

Academic freedom

120. The Act of 1971 is amended by the insertion of the following section after section 5:

"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.".

Amendment of section 7 of Act of 1971

121. Section 7 of the Act of 1971 is amended—

(a) by the substitution of the following subsection for subsection (1):

"(1) The term of office of a member of An Bord, other than the Director, shall be four years.",

and

(b) by the substitution of the following subsection for subsection (4):

"(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.".

Amendment of section 10 of Act of 1971

122. Section 10 of the Act of 1971 is amended by the substitution of "such remuneration (if any) and such allowances for expenses (if any)" for "such allowances in respect of expenses".

Amendment of section 13 of Act of 1971

123. Section 13 of the Act of 1971 is amended—

(a) in subsection (1), by the insertion of "and shall hold not less than four meetings in any 12 month period" after "so many meetings as may be necessary for the due fulfilment of its functions", and

(b) by the insertion of the following subsection after subsection (7):

"(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.".

Amendment of section 15 of Act of 1971

124. Section 15 of the Act of 1971 is amended by the substitution of the following subsection for subsection (2):

"(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.".

Review of matter and report by An Bord

125. The Act of 1971 is amended by the insertion of the following section after section 16:

"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).".

Amendment of section 17 of Act of 1971

126. Section 17 of Act of 1971 is amended—

(a) by the substitution of the following subsection for subsection (2):

"(2) The Director shall be the chief officer of An Bord and the provisions of the Schedule shall apply to the Director.",

and

(b) by the substitution of the following subsection for subsection (3):

"(3) The Registrar shall act as registrar and secretary of the College.".

Academic council of college and its functions

127. The Act of 1971 is amended by the insertion of the following sections after section 20:

"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).

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.".

Strategic development plan of College

128. The Act of 1971 is amended by the insertion of the following section after section 20B (inserted by *section 127*):

"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.".

Equality statement of College

129. The Act of 1971 is amended by the insertion of the following section after section 20C (inserted by *section 128*):

"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.".

Provisions relating to Director of College

130. The Act of 1971 is amended by the insertion of the following Schedule:

"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.".

PART 14

Amendment of Housing Finance Agency Act 1981

Amendment of Housing Finance Agency Act 1981

131. The Housing Finance Agency Act 1981 is amended—

(a) in section 1, by—

(i) the insertion of the following definition:

"'*Act of 2022*' means the *Higher Education Authority Act 2022*;",

and

(ii) the substitution of the following definition for the definition of "institution of higher education":

"'institution of higher education' means—

(a) a designated institution of higher education within the meaning of the *Act of 2022* that is also a funded body within the meaning of that Act, and

(b) a higher education provider that is not a designated institution of higher education within the meaning of the *Act of 2022* but is a funded body within the meaning of that Act whose primary income derives from funding provided to it by An tÚdarás um Ard-Oideachas under *section 37* of the *Act of 2022*;",

and

(b) in section 5, by the substitution of the following paragraph for paragraph (f):

"(f) an institution of higher education, to be used by it in respect of the provision or management of housing accommodation for students, including the acquisition of land by such an institution for that purpose and, other than in the case of an institution of higher education referred to in *subparagraph (i)* or *(ii)* of *section 53(1)(a)* of the *Act of 2022*, only with the prior consent in writing of the Minister for Further and Higher Education, Research, Innovation and Science,".

PART 15

AMENDMENT OF STUDENT SUPPORT ACT 2011 AND RELATED PROVISIONS

Awarding and payment of bursaries and scholarships to students

132. (1) The Minister may if he or she considers it appropriate to do so, as respects bursaries and scholarships for students for the purpose of assisting such students to pursue approved courses at approved institutions and if so requested by a person who established or is responsible for a bursary scheme or scholarship scheme, administer or, as may be appropriate, assist with the administration of—

(a) the identification of students who are eligible for such bursaries and scholarships,

(b) the awarding of such bursaries and scholarships to students, and

(c) the payment of such bursaries and scholarships to students,

in accordance with the terms of the bursary scheme or scholarship scheme, as the case may be, concerned.

(2) If and to the extent that the Minister considers it appropriate to do so, the functions of the Minister under *subsection (1)* may be performed by an awarding authority within the meaning of the Act of 2011.

(3) In this section—

(a) "approved course", "approved institution", "bursary scheme", "scholarship scheme" and "student" have the respective meanings they have in the Act of 2011, and

(b) "bursary" and "scholarship" have the respective meanings they have in the Act of 2011, subject to the modification that the money in respect of a bursary or scholarship may be paid to a student by the Minister or an awarding authority within the meaning of that Act.

Amendment of section 2 of Act of 2011

133. Section 2 of the Act of 2011 is amended by the insertion of the following definitions:

"'bursary' means money paid by an awarding authority to a student, or to an approved institution on behalf of the student, for the purpose of assisting the student to pursue an approved course at the approved institution, where the money is provided from a fund established pursuant to a bursary scheme;

'bursary scheme' means a scheme established, by way of a trust or other instrument, for the purposes of providing financial support to students falling into all or any of the following groups to assist them to participate in further education or higher education:

(a) students who are economically or socially disadvantaged;

(b) students who have a disability;

(c) students who are from sections of society significantly under-represented in the student body;

'scholarship' means money paid by an awarding authority to a student, or to an approved institution on behalf of the student, for the purpose of assisting the student to pursue an approved course at the approved institution, where the money is provided from a fund established pursuant to a scholarship scheme;

'scholarship scheme' means a scheme established, by way of a trust or other instrument, for the purposes of providing financial support to students who demonstrate the level of educational attainment (if any) required by the scheme and who fall into all or any of the following groups to assist them to participate in further education or higher education:

(a) students who are economically or socially disadvantaged;

(b) students who have a disability;

(c) students who are from sections of society significantly under-represented in the student body;".

Amendment of section 12 of Act of 2011

134. Section 12 of the Act of 2011 is amended—

(a) in subsection (1), by the insertion of the following paragraph after paragraph (c):

"(ca) keep all proper and usual accounts of moneys received by it or expenditure of such moneys incurred by it in relation to bursaries and scholarships,",

(b) by the insertion of the following subsection after subsection (1):

"(1A) An awarding authority shall, as respects a bursary scheme or scholarship scheme, whenever requested to do so by the Minister administer or, as may be appropriate, assist with the administration of—

(a) the identification of students who are eligible for bursaries or scholarships under the bursary scheme or scholarship scheme, as the case may be, concerned,

(b) the awarding of such bursaries or scholarships to students, and

(c) the payment, out of funds provided by the person who established or is responsible for the bursary scheme or scholarship scheme, as the case may be, concerned to the awarding authority for that purpose, of such bursaries or scholarships to the students to whom awards are made or to an approved institution on behalf of such students,

in accordance with the terms of the bursary scheme or scholarship scheme, as the case may be, concerned.",

and

(c) in subsection (3), by the insertion of ", bursaries or scholarships" after "as respects grants".

Amendment of section 28 of Act of 2011

135. Section 28 of the Act of 2011 is amended—

(a) in subsection (1), by the substitution of "the first named person is satisfied that the data or information will be used only for a relevant purpose as respects a grant" for "the first named person is satisfied that it will be used for a relevant purpose only",

(b) in subsection (2), by the substitution of "a person so listed or prescribed will further the attainment of a relevant purpose as respects a grant" for "a person so listed or prescribed will further the attainment of a relevant purpose",

(c) by the insertion of the following subsection after subsection (2):

"(2A) Notwithstanding anything contained in any enactment (other than the Act of 2018), the controller of a person listed in Schedule 3, or of a person prescribed for the time being under subsection (2B) (in this subsection called 'the first named person'), shall on being requested to do so by the controller of a person so listed or prescribed, process personal data kept by the first named person, or information extracted from such data, for the controller of the other person so listed or prescribed for the time being, if the controller of the first named person is satisfied that the data or information will be used only for a relevant purpose as respects a bursary or scholarship.

(2B) If a person (not being a person listed in Schedule 3 or prescribed for the time being under this subsection) keeps personal data that are relevant to the functions of an awarding authority under section 12(1A), and the Minister considers that the supply of those data by the person not so listed or prescribed to a person so listed or prescribed will further the attainment of a relevant purpose as respects a bursary or scholarship, then, the Minister following consultation with the Data Protection Commission, may prescribe that person for the purposes of subsection (2A).",

(d) in subsection (3), by the substitution of "for the purposes of subsection (1) or (2A) shall go no further than is necessary" for "for the purposes of subsection (1) shall go no further than is reasonably necessary",

(e) in subsection (4), by the insertion of "or (2A)" after "a request under subsection (1)", and

(f) in the definition of "relevant purpose" in subsection (5)—

(i) in paragraph (a), by the insertion of ", bursary or scholarship, as the case may be" after "is eligible for a grant", and

(ii) in paragraph (d), by the insertion of ", bursaries and scholarships" after "the payment of grants".

Schedule 3 to Act of 2011

136. The Act of 2011 is amended by the insertion of the following Schedule after Schedule 2:

"SCHEDULE 3

Section 28

1. The Minister.

2. The Minister for Education.

3. An awarding authority.

4. The State Examinations Commission.".

PART 16

Amendment of Industrial Training Act 1967

Amendment of section 2 of Industrial Training Act 1967

137. The Industrial Training Act 1967 is amended by the substitution of the following definition for the definition "activity of industry":

> "'activity of industry' includes any activity of commerce or of a trade or occupation, and also includes any activity of a distinct branch of an industry, of commerce or of a trade or occupation;".

Amendment of section 23(2) of Industrial Training Act 1967

138. Section 23(2) of the Industrial Training Act 1967 is amended by the insertion of "and, where the activity of industry relates to a regulated profession, the appropriate competent authority or authorities in the State shall be consulted" after "persons employed in the activity".

PART 17

Amendment of Social Welfare Consolidation Act 2005

Amendment of section 266 of Social Welfare Consolidation Act 2005

139. Section 266 of the Social Welfare Consolidation Act 2005 is amended by the substitution of the following paragraph for paragraph (b):

> "(b) An tÚdarás um Ard-Oideachas, where that body requires the information for the purposes of performing its functions under *paragraphs (b), (c), (d), (j), (k), (n) and (u)* of *section 9(1)* of the *Higher Education Authority Act 2022*.".

PART 18

Amendment of National Treasury Management Agency (Amendment) Act 2014

Amendment of section 26(1) of National Treasury Management Agency (Amendment) Act 2014

140. Section 26(1) of the National Treasury Management Agency (Amendment) Act 2014 is amended by the substitution of the following paragraph for paragraph (e):

> "(e) to enter into any arrangement or contract to procure as agent for the Minister for Education, the Minister for Further and Higher Education, Research, Innovation and Science or for a local authority (within the meaning of the Local Government Act 2001) any public investment project in relation to building or other infrastructure, including the financing, management, design and construction of such building or other infrastructure, as the Minister of the Government concerned or the local authority, as the case may be, may from time to time designate.".

PART 19

MISCELLANEOUS PROVISIONS

Names of designated institutions of higher education

141. An tÚdarás shall, from time to time, publish in such manner as it considers appropriate the names of the designated institutions of higher education and shall do so as soon as practicable after—

(a) a designation order is made, or

(b) a revocation order is made.

Provision of assistance by An tÚdarás

142. (1) An tÚdarás may provide assistance in accordance with this section to a designated institution of higher education following a request in writing for such assistance from the institution.

(2) The assistance that may be provided by An tÚdarás to a designated institution of higher education under this section may comprise either of the following for such period as is agreed by the Chief Executive Officer with the institution:

(a) the appointment by the Chief Executive Officer of a person or persons, or of a body, to provide advice or assistance of a specialist nature to the institution;

(b) the issuing of guidance to the institution regarding a particular matter or matters.

(3) A person or persons, or a body, appointed under *subsection (2)(a)* by the Chief Executive Officer may—

(a) provide advice or assistance or make recommendations to the designated institution of higher education concerned regarding any matter relating to its functions or its viability,

(b) carry out an assessment of particular reports, financial plans, governance practices or the undertaking of particular functions and may, following such an assessment, make recommendations to the designated institution of higher education concerned with regard to the changes or improvements required to be made by it,

(c) agree with the designated institution of higher education concerned a plan of action to be implemented regarding any matter related to the performance of its functions or its viability,

(d) assess and monitor the implementation by the institution of higher education concerned of any recommendations made or plans agreed, or both, and

(e) prepare a report and submit it to the Chief Executive Officer regarding the assistance provided to, and the action taken by, the designated institution of higher education concerned.

Guidelines, codes and policies

143. (1) An tÚdarás may prepare or adopt and issue guidelines, codes or policies to designated institutions of higher education for any purpose relating to this Act and concerning—

(a) any matter or thing referred to in this Act or any other enactment, and

(b) the implementation of any policy or objective of the Minister or the Government.

(2) An tÚdarás shall, for the purposes of the preparation or adoption of guidelines, codes or policies under *subsection (1)*, consult with—

(a) the Minister,

(b) such other Ministers of the Government as it considers appropriate,

(c) designated institutions of higher education or their representative bodies,

(d) public research funders,

(e) national students' unions, or

(f) such other body or person as it considers appropriate.

(3) The Minister may give a direction in writing to An tÚdarás to prepare guidelines, codes or policies under *subsection (1)* and An tÚdarás shall comply with the direction.

(4) An tÚdarás shall send a copy of the guidelines, codes or policies under *subsection (1)* to the designated institutions of higher education.

(5) An tÚdarás shall publish the guidelines, codes or policies prepared or adopted by it under this section in such manner as An tÚdarás considers appropriate.

(6) The designated institutions of higher education shall report to An tÚdarás annually or, as requested by An tÚdarás, on the implementation of the guidelines, codes and policies prepared or adopted under *subsection (1)*.

Service of notices

144. A notice that is required to be sent or given to a person or body under this Act may be sent or given to the person in one of the following ways:

(a) by delivering it to the person or body;

(b) by addressing it to the person or body and leaving it at the address at which he or she ordinarily resides or is located or, in a case in which an address for service has been furnished, at that address;

(c) by sending it to the person or body by post in a prepaid registered letter to the address at which he or she ordinarily resides or is located or, in a case in which an address for service has been furnished, to that address; or

(d) by sending it by means of electronic mail to a device or facility for the reception of electronic mail located at the address at which the person resides or carries on business or the body carries on business or, if an address for the service of a notice has been furnished by the person or body, that address, but only if the recipient's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail and the notice is also given in one of the other ways mentioned in any of the preceding *paragraphs (a)* to *(c)*.

Consequential amendments of enactments

145. Each provision of the enactments mentioned in *column(2)* of *Schedule 4* is amended to the extent specified in *column (3)* of that Schedule opposite that mention.

SCHEDULE 1

Section 5

Part 1

Enactments Repealed>

Number and Year	Short Title	Extent of Repeal
(1)	**(2)**	**(3)**
No. 22 of 1971	Higher Education Authority Act 1971	The whole Act
No. 28 of 1971	National College of Art and Design Act 1971	Sections 15A and 16(3) and (4)
No. 16 of 1992	Regional Technical Colleges Act 1992	Sections 7(4) and (5), 14(2A) and (4) and 20
No. 24 of 1997	Universities Act 1997	Sections 4(2), (3) and (4), 19, 20, 21 and 50
No. 3 of 2018	Technological Universities Act 2018	Sections 26, 27(2) and (3), 58, 80(b), 82, 83, 84 and 91

Part 2

Enactments Revoked

Statutory Instrument number and year	Citation	Extent of revocation
(1)	**(2)**	**(3)**
S.I. No. 58 of 1973	Higher Education Authority Act 1971 (Designation of Institution of Higher Education) Regulations 1973	The whole statutory instrument
S.I. No. 208 of 1976	Higher Education Authority Act 1971 (Designation of Institution of Higher Education) Regulations 1976	The whole statutory instrument
S.I. No. 295 of 1976	Higher Education Authority Act 1971 (Designation of Institution of Higher Education) (No. 2) Regulations 1976	The whole statutory instrument
S.I. No. 287 of 1978	Higher Education Authority Act 1971 (Designation of Institution of Higher Education) Regulations 1978	The whole statutory instrument
S.I. No. 423 of 1979	Higher Education Authority Act 1971 (Designation of Institution of Higher Education) Regulations 1979	The whole statutory instrument

SCHEDULE 2

Board of An tÚdarás

Section 15

1. The Board shall retain in its possession a seal of An tÚdarás.

2. (1) A member of An tÚdarás, holds office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the Minister, with the approval of the Minister for Public Expenditure and Reform.

(2) There may be paid by An tÚdarás to the members of the Board such remuneration (if any) and such allowances for expenses (if any) as the Minister, with the approval of the Minister for Public Expenditure and Reform, may determine.

3. (1) A member of the Board may resign from office by giving notice in writing to the Minister of his or her resignation and the resignation shall take effect on the day on which the Minister receives the notice.

(2) If the chairperson of the Board resigns as chairperson he or she shall then also cease to be a member of the Board.

(3) The Minister may at any time remove from office a member of the Board if, in the opinion of the Minister—

(a) the member has become incapable through ill-health of performing his or her duties,

(b) the member has committed stated misbehaviour, or

(c) the removal of the member appears to be necessary for the effective performance by the Board of its functions.

(4) A member of the Board shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence in relation to a company or any other body corporate,

(e) is convicted of an offence involving fraud or dishonesty,

(f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(g) is subject, or is deemed to be subject, to a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

4. (1) If a member of the Board dies, resigns, ceases to be qualified for or ceases to hold office or is removed from office for any reason, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned in the same manner as the member who occasioned the casual vacancy was appointed.

(2) A person appointed to be a member of the Board pursuant to *subparagraph(1)*—

(a) holds office for so much of the term of office of the member who occasioned the casual vacancy concerned as remains unexpired at the date of the appointment, and

(b) is eligible for re-appointment as a member of the Board on the expiry of that term of office.

5. (1) The Board shall hold such and so many meetings as may be necessary for the due performance of its functions but in each year shall hold not less than one meeting in each period of 3 months.

(2) The chairperson shall convene a meeting of the Board when requested to do so by not less than the number of members which constitutes a quorum.

(3) The quorum for a meeting of the Board shall be 6.

(4) At a meeting of the Board—

(a) the chairperson shall, if present, be the chairperson of the meeting, or

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

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

(6) Subject to *subparagraph (3)*, the Board may act notwithstanding one or more vacancies among its members.

(7) The Board may hold or continue a meeting by the use of any means of communication by which all the members can hear and be heard at the same time (in this Schedule referred to as an "electronic meeting").

(8) A member of the Board who participates in an electronic meeting is taken for all purposes to be present at the meeting.

6. (1) The Board may establish committees, consisting in whole or in part of persons who are members of the Board or members of the staff of An tÚdarás, to assist and advise it in relation to the performance of any of its functions.

(2) In appointing members of a committee established under this paragraph, the Board shall have regard to—

(a) the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and

(b) the objective that not less than 40 per cent of members of the committee shall be women and not less than 40 per cent of them shall be men.

(3) An tÚdarás may pay to members of a committee established under this paragraph such allowances for expenses (if any) incurred by them as the Board may, with the consent of the Minister and the approval of the Minister for Public Expenditure and Reform, determine.

(4) The Board may for stated reasons remove a member of a committee established under this paragraph from the committee at any time.

(5) The acts of a committee shall be subject to confirmation by the Board, unless the Board otherwise determines.

(6) A committee established under this paragraph may regulate, by standing order or otherwise, its procedure and business.

(7) The Board may appoint a person to be chairperson of a committee established under this paragraph.

(8) A committee shall provide the Board with such information as it may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the Board of its functions.

(9) The Board may at any time dissolve a committee established under this paragraph.

7. (1) Where a member of the Board is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the Board.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a member of the European Parliament shall be disqualified, while he or she is so entitled or is such a member, from being a member of the Board or a member of a committee established under *paragraph 6*.

8. (1)*Subparagraph(2)* applies where at a meeting of the Board any of the following matters arise, namely—

(a) an arrangement to which An tÚdarás is a party,

(b) an arrangement to which An tÚdarás proposes to become a party,

(c) a contract or other agreement with An tÚdarás, or

(d) a proposed contract or other agreement with An tÚdarás.

(2) Any member of the Board present at the meeting referred to in *subparagraph(1)* who has a pecuniary interest or other beneficial interest in, or material to, the matter concerned shall—

(a) disclose to the Board at the meeting the fact of that interest and its nature,

(b) not influence (or seek to influence) a decision to be made in relation to the matter,

(c) absent himself or herself from the meeting, or that part of the meeting, during which the matter is being discussed,

(d) take no part in any deliberation of the Board relating to the matter, and

(e) not vote on a decision relating to the matter.

(3) Where an interest is disclosed pursuant to this paragraph, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member of the Board by whom the disclosure is made shall not be counted in the quorum for the meeting.

(4) Where at a meeting of the Board a question arises as to whether or not a course of conduct, if pursued by a member of the Board, would constitute a failure by him or her to comply with the requirements of *subparagraph(2)*, the question may, subject to *subparagraph (5)*, be determined by the chairperson of the meeting, whose decision shall be final, and where the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(5) Where, at a meeting of the Board, the chairperson of the meeting is the member in respect of whom a question to which *subparagraph (4)* applies falls to be determined, the other members of the Board attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

(6) Where the Minister is satisfied that a member of the Board has failed to comply with the requirements of *subparagraph(2)*, the Minister may, if he or she considers it appropriate to do so, remove that member from office and, where a person is removed from office pursuant to this subparagraph, he or she shall thenceforth be disqualified for membership of the Board.

9. *Paragraph 8* shall apply to a member of a committee established under *paragraph 6* where the member is not also a member of the Board and for the purposes of that application—

(a) a reference to a member of the Board shall be construed as reference to a member of the committee, and

(b) a reference to the Board shall be construed as reference to the committee.

10. (1) A person shall not disclose confidential information obtained by him or her while performing functions as—

(a) a member of the Board, or

(b) a member of a committee established under *paragraph 6*,

unless he or she is authorised by the Board to so do.

(2) A person who contravenes *subparagraph(1)* commits an offence.

(3) Nothing in this paragraph shall prevent the disclosure of information—

(a) in a report made to the Board,

(b) by or on behalf of the Board to the Minister,

(c) by a member of the Board to the Minister, or

(d) by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995.

(4) In this paragraph, "confidential information" includes—

(a) information that is expressed by the Board to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) proposals of a commercial nature or tenders submitted to the Board by contractors, consultants or any other person.

11. Subject to this Act, the Board shall regulate, by standing orders or otherwise, its procedure and business.

SCHEDULE 3

Superannuation

Section 31

1. An tÚdarás may, after the commencement of *section 7* and subject to *section 31*, prepare and submit to the Minister a scheme or schemes amending the schemes made under section 15 of the Higher Education Authority Act 1971 for the granting of superannuation benefits to or in respect of—

(a) such members of the staff of An tÚdarás (including the Chief Executive Officer, but not including persons to whom the Single Public Service Pension Scheme applies by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012) as it considers appropriate, and

(b) former members of the staff of An tÚdarás, including those who are deceased.

2. Every scheme shall fix the time and conditions of retirement for all persons to, or in respect of whom, superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

3. The Minister for Public Expenditure and Reform may amend the time and conditions of retirement and any such amendments shall be included in the scheme.

4. An tÚdarás may prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this Schedule.

5. A scheme or amending scheme submitted to the Minister under this Schedule shall, if approved by the Minister, with the consent of the Minister for

Public Expenditure and Reform, be carried out by An tÚdarás in accordance with its terms.

6. Every scheme made under this Schedule shall make provision for appeals.

7. A superannuation benefit shall not be granted by An tÚdarás to or in respect of any members of the staff of An tÚdarás (including the Chief Executive Officer) who are members of a scheme made under section 15 of the Higher Education Authority Act 1971 or a scheme under this Schedule and no other arrangement shall be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with a scheme made under that section 15 or such scheme or schemes submitted and approved under this Schedule or an arrangement approved by the Minister, with the consent of the Minister for Public Expenditure and Reform.

8. The Minister shall cause every scheme submitted and approved under this Schedule to be laid before each House of the Oireachtas as soon as may be after it is approved, and if either House within the next 21 days on which that House sits after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to anything previously done thereunder.

SCHEDULE 4

Consequential amendments of enactments

Section 145

Number and Year **(1)**	**Short Title** **(2)**	**Amendments** **(3)**
No. 28 of 1971	National College of Art and Design Act 1971	In section 14, the substitution of the following subsection for subsection (3): "(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.".
No. 16 of 1992	Regional Technical Colleges Act 1992	In section 13(1), the substitution of "*section 19* of the *Higher Education Authority Act 2022*" for "section 12 of the Higher Education Authority Act 1971".
No. 24 of 1997	Universities Act 1997	In section 3— (a) in the definition of "An tÚdarás", the substitution of "An tÚdarás um Ard-Oideachas" for "the body established by section 2 of the Higher Education Authority Act 1971",

(b) in the definition of "chairperson", the deletion of "the chief officer,",

(c) in the definition of "governing authority", the deletion of paragraphs (a) and (b),

(d) the deletion of the definition of "Visitor", and

(e) the insertion of the following definitions:

" 'education and training board' means an education and training board established under the Education and Training Boards Act 2013;

'education and training board area' has the meaning assigned to it by the Education and Training Boards Act 2013;".

In section 9(5), the substitution of "section 19 of the *Higher Education Authority Act 2022* and section 37(1)" for "section 12 of the Higher Education Authority Act 1971 and section 37(2)".

In section 15(1), the deletion of "Subject to section 21,".

In section 23—

(a) the substitution of "chairperson of the Board" for "Chairman" wherever it occurs in subsection (2),

(b) the deletion of subsection (6), and

(c) in subsection (7), the deletion of—

(i)", or person or body appointed under subsection (6)," and

(ii)"or body".

In section 25(1)—

(a) in paragraph (a), the insertion of "and" after "by the Government,",

(b) the substitution of "subsequent budgets." for "subsequent budgets, and" in paragraph (b), and

(c) the deletion of paragraph (c).

In section 49—

(a) the substitution of "functions under *section 9* of the *Higher Education Authority Act 2022*" for "general functions under section 3 of the Higher Education Authority Act 1971", and

(b) the substitution of "information provided under section 51" for "matters referred to in section 50, having regard to any guidelines issued in accordance with that section and information provided in accordance with section 51" in paragraph (d).

		In section 54(1), the substitution of "*section 19* of the *Higher Education Authority Act 2022*" for "section 12 of the Higher Education Authority Act 1971".
No. 26 of 2005	Social Welfare Consolidation Act 2005	In the definition of "institution of education" in section 148(2)— (a) the substitution of the following paragraph for paragraph (d): "(d) a designated institution of higher education within the meaning of the *Higher Education Authority Act 2022* that falls under paragraph (a) of section 53(1) of that Act,", (b) the deletion of paragraphs (b), (c), (f) and (g), and (c) the substitution of the following paragraph for paragraph (h): "(h) any institution which is not an institution for the purposes of paragraph (a) or (d) and which is an 'approved institution' within the meaning of the Student Support Act 2011 and falls under paragraph (d), (e), (f) or (g) of section 7(1) of that Act, or".
No. 6 of 2009	Charities Act 2009	In the definition of "education body" in section 2(1), the substitution of the following paragraph for paragraph (f): "(f) a designated institution of higher education within the meaning of the *Higher Education Authority Act 2022* that falls under paragraph (a) of section 53(1) of that Act, or".
No. 4 of 2011	Student Support Act 2011	In sections 7(2)(b) and 14A(1)(b), the substitution of "An tÚdarás um Ard-Oideachas" for "the Higher Education Authority".
No. 28 of 2012	Qualifications and Quality Assurance (Education and Training) Act 2012	In section 2(1), the deletion of the definition of "institution of higher education" and the insertion of the following definition: " 'designated institution of higher education' has the same meaning as it has in the *Higher Education Authority Act 2022*;". In section 27(4)(b), the substitution of "designated institutions of higher education" for "institutions of higher education". In section 34(4)(b), the substitution of "a designated institution of higher education" for "an institution of higher education". In section 42(2)(b), the substitution of "a designated institution of higher education" for "an institution of higher education". In section 57(3)(b), the substitution of "a designated institution of higher education" for "an institution of higher education".

		In section 65(6), the deletion of paragraph (f).
No. 40 of 2013	Child and Family Agency Act 2013	In the definition of "public body" in section 2, the substitution of the following paragraph for paragraph (i): "(i) a designated institution of higher education within the meaning of the *Higher Education Authority Act 2022* that falls under paragraph (a) of section 53(1) of that Act and that is also a funded body within the meaning of that Act;".
No. 14 of 2014	Protected Disclosures Act 2014	In the definition of "public body" in section 3(1), the substitution of the following paragraph for paragraph (i): "(i) a designated institution of higher education within the meaning of the *Higher Education Authority Act 2022* that falls under paragraph (a) of section 53(1) of that Act and that is also a funded body within the meaning of that Act;".
No. 3 of 2018	Technological Universities Act 2018	In subsections (1) and (5) of section 20, the substitution of "*section 19* of the *Higher Education Authority Act 2022*" for "section 12 of the Higher Education Authority Act 1971". In section 55— (a) the substitution of the following subsection for subsection (3): "(3) The governing body, comprising the president and persons appointed under subsection (2), shall within 6 months of the appointed day comply with section 12(4), (7) and (8).", (b) in paragraph (b) of subsection (4), the substitution of "appointed under section 12(2)(b) or (d)" for "elected under section 12(1)(c), (d) or (e) or 12(2)(c), (d) or (e) or appointed under 12(1)(h) or 12(2)(h)", and (c) in paragraph (b) of subsection (5), the substitution of "section 12(6)(b)" for "section 12(3)(b)".
S.I. No. 230 of 2018	European Communities (Reception Conditions) Regulations 2018	In Schedule 6, the substitution of the following paragraph for paragraph (j) "(j) a designated institution of higher education within the meaning of the *Higher Education Authority Act 2022* that falls under paragraph (a) of *section 53(1)* of that Act and that is also a funded body within the meaning of that Act.".

Number 31 *of* 2024

HIGHER EDUCATION AUTHORITY ACT 2022

REVISED

Updated to 1 August 2024

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

• *Research and Innovation Act 2024* (15/2024)

All Acts up to and including *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024), enacted 23 July 2024, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Higher Education Authority Act 2022 (Appeals) Regulations 2024* (S.I. No. 132 of 2024)
- *Higher Education Authority Act 2022 (Commencement) Order 2022* (S.I. No. 554 of 2022)

All statutory instruments up to and including *Research and Innovation Act 2024 (Commencement) Order 2024* (S.I. No. 373 of 2024), made 25 July 2024, were considered in the preparation of this revision.