



Bille an Údaráis um Ard-Oideachas, 2022
Higher Education Authority Bill 2022

Meabhrán Miniúcháin
Explanatory Memorandum



**BILLE AN ÚDARÁIS UM ARD-OIDEACHAS, 2022
HIGHER EDUCATION AUTHORITY BILL 2022**

EXPLANATORY MEMORANDUM

This Explanatory Memorandum does not form part of the Bill and does not purport to be a legal interpretation.

Purpose of Bill

The purpose of the legislation is to reform the legislative framework for the higher education system enabling improved oversight and regulation of higher education institutions. The legislation repeals the Higher Education Authority Act 1971 and provides a legal basis for the functions of An tÚdarás Um Ard-Oideachas, (the Higher Education Authority, (HEA)) and the role of the Minister.

The core objectives of the HEA legislation are to:

- Promote and support higher education institutions in achieving excellence in teaching, learning and research in higher education,
- Promote and safeguard the interests of students,
- Advance equality, diversity and inclusion in higher education,
- Provide a comprehensive governance and accountability framework to safeguard Exchequer investment in the sector and ensure accountability by higher education institutions for that funding,
- Maximise the contributions of higher education to social, economic, cultural, Irish language and environmental development and sustainability, and
- Maintain and enhance the reputation of the higher education sector, including international reputation.

The overall aim is to provide a high quality, student focused system with appropriate oversight and accountability to underpin public confidence of stakeholders, students and the public.

The legislation will clarify overall policy development in relation to higher education and research as the responsibility of the Minister. The legislation strengthens the institutional governance in higher education institutions but also provides for accountability by the higher education institutions to the HEA and the State, in particular for exchequer funding. This legislation puts an onus on the higher education institution to have in place robust governance and accountability structures and processes within their institution. It provides for oversight by the HEA of the institutions of higher education and intervention if they do not exercise good governance.

PART 1

PRELIMINARY AND GENERAL.

Section 1 - Short title and commencement sets out the short title by which the Bill will be known and allows for a phased implementation by empowering the Minister to commence different provisions of the Bill at different times.

Section 2 - Interpretation sets out common terms used in the Bill. It also provides that higher education shall include references to research undertaken in the higher education system.

Section 3 - Regulations and orders provides for the making of regulations and orders under certain sections and the approval of the orders by each House of the Oireachtas.

Section 4 - Expenses provides that the expenses incurred by the Minister in the administration of the Act may be paid out of monies provided by the Oireachtas.

Section 5 - Repeals and savers provides for the repeal of the enactments specified in Schedule 1 including the Higher Education Authority Act 1971.

Section 6 - Offences sets out conditions in relation to an offence under this Act and provides that summary proceedings for an offence under this Act may be brought and prosecuted by An tÚdarás.

PART 2

AN TÚDARÁS UM ARD-OIDEACHAS.

Chapter 1

Continuance in being and functions of An tÚdarás

Section 7 - An tÚdarás um Ard-Oideachas provides for the continuance of An tÚdarás um Ard-Oideachas (in this Act referred to as An tÚdarás) in accordance with the provisions in the Bill. It also sets out standard provisions relating to its corporate nature and official seal.

Section 8 - Objects of An tÚdarás details the Objects which An tÚdarás will have regard to when undertaking its functions. The Objects are a set of overall principles applying to the higher education system as follows:

- to promote the attainment and maintenance of excellence in teaching, learning and research in a high quality higher education system,
- to support designated institutions of higher education in contributing to social, economic, cultural (including the promotion and use of the Irish language) and environmental development and sustainability through leadership, innovation and agility.
- to hold designated institutions of higher education to account for their performance and for securing value-for-money from the use of funding provided under this Act,
- to advance equality of opportunity, diversity and inclusion in higher education,
- to strengthen engagement with the education system and society generally,
- to respect the academic freedom of higher education providers and academic staff in higher education providers, and

- to acknowledge the responsibility of designated institutions of higher education for the performance and governance of their institution.

It also provides that in the furtherance of these objects An tÚdarás shall provide that the needs of the student in higher education are a primary consideration.

Section 9 - Functions of An tÚdarás outlines the general functions of An tÚdarás as follows:

- promote the objects of An tÚdarás,
- 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,
- secure and evidence value-for-money in the expenditure of public money in higher education allocated to funded bodies,
- plan for higher education provision and make recommendations to the Minister on the overall provision of student places,
- plan for research in the higher education system and make recommendations to the Minister on the overall higher education research system,
- 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,
- facilitate co-operation at a national, regional and local level between designated institutions of higher education and other education providers,
- co-operate with designated institutions of higher education and other bodies, as may be appropriate, in relation to the development and provision of higher education,
- promote, support and fund excellent research in the higher education system across all disciplines in accordance with national research policy and in partnership, as may be appropriate, with Ministers of the Government, Government agencies and such other bodies as An tÚdarás considers appropriate,
- 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,
- 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,
- 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,
- 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,
- advise the Minister in relation to national policy on higher education,

- promote co-operation and collaboration with regard to higher education 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,
- 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,
- research any matters relating to the objects and functions of An tÚdarás, and
- collect statistical information and maintain an evidence base in order to provide high quality evidence-based policy advice.

It also provides that An tÚdarás shall have the powers necessary for the performance of these functions.

Section 10 - Consultants and advisers is a standard provision that provides for the appointment and remuneration of consultants and advisors by the HEA, as it considers necessary for the performance of its functions.

Chapter 2

Ministerial powers and information

Section 11 - Power of Minister to give directions to An tÚdarás provides that the Minister may give a direction in writing to An tÚdarás requiring it to comply with any matter referred to in this Act including having regard to any other enactment or the implementation of any policy or objective of the Minister or the Government. It provides that An tÚdarás shall comply with any such direction and shall inform the Minister of the measures taken to comply with that direction. It also provides that the Minister may amend or revoke any such direction in writing.

Section 12 - Power of Minister to issue guidelines to An tÚdarás provides that the Minister may issue guidelines in writing to An tÚdarás for the purposes of this Act which may relate to codes of practice for governance or other codes, additional policy guidance or changes in policy and changes in prioritisation of corporate plan commitments of An tÚdarás. An tÚdarás shall have regard to any guidelines issued by the Minister in performing its functions under this Act.

Section 13 - Reports and information to Minister provides that An tÚdarás shall provide reports and information to the Minister in such form and manner and at such time as the Minister may specify on any matter related to the performance of the functions of An tÚdarás.

Section 14 - Advice to Minister provides that An tÚdarás may provide advice to the Minister on any matter related to the performance of its functions. It also provides that An tÚdarás shall provide advice as requested by the Minister on any matter related to the performance of the functions of An tÚdarás.

Chapter 3

Board of An tÚdarás

Section 15 - Board of An tÚdarás provides that An tÚdarás shall have a Board established under this Act to perform the functions of An tÚdarás. The Board shall oversee the preparation and adoption of the corporate plan and the annual plan for An tÚdarás and their submission to the Minister,

satisfy itself that appropriate systems, procedures and practices are in place in An tÚdarás and shall establish and implement arrangements for the management of the performance of the Chief Executive Officer.

The Board is accountable to the Minister for the performance of its functions. The Board may delegate in writing certain functions to the Chief Executive Officer and the Board shall notify the Minister in writing of any delegation made and of any revocation of such delegation.

Section 16 - Membership of Board of An tÚdarás provides that the Board will have 12 members (a chairperson and 11 ordinary members) and that all appointments are made by the Minister. It provides that the board shall consist of persons who, in the opinion of the Minister, have sufficient experience and expertise in certain competencies. It also provides that not less than 1 of the members shall be a student or a full-time officer of a national student union, nominated by the national student union.

It provides for gender balance on the Board and that the terms of office of the members shall not exceed 4 years and members may not serve more than 2 consecutive terms of office up to a maximum of 8 years.

It provides that the existing Board will cease on commencement day but that the existing members will be eligible for re-appointment.

Chapter 4

Administrative co-operation with other bodies

Section 17 – Administrative co-operation with other bodies provides that An tÚdarás shall endeavour to secure administrative co-operation between it and other bodies consistent with the proper performance of its functions. An tÚdarás may enter into an agreement or arrangements with those bodies to facilitate administrative co-operation, avoid duplication of activities and ensure consistency between decisions made or measures taken by An tÚdarás and those other bodies.

This section applies to the Qualifications and Quality Assurance Authority of Ireland, An tSeirbhís Oideachais Leanúnaigh Agus Scileanna, Science Foundation Ireland, and other appropriate bodies prescribed by the Minister for the purposes of this section.

Section 18 - Co-operation between An tÚdarás and An tSeirbhís regarding apprenticeships provides that An tÚdarás may enter into an agreement with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna in relation to the delivery of a system of apprenticeships, having regard to their respective statutory functions. This agreement shall provide for the establishment, on an administrative basis, of a National Apprenticeship Office, whose functions shall be to manage, oversee and develop a system of apprenticeships. The Office shall have regard to the relevant policies of the Minister and the Minister may, by regulations, prescribe matters regarding the structure and operation of the Office.

Chapter 5

Funding and accountability of An tÚdarás

Section 19 - Advances to An tÚdarás provides that a grant is provided to An tÚdarás each year out of money provided by the Oireachtas, by the Minister with the consent of the Minister for Public Expenditure and Reform, for the purposes of expenditure by An tÚdarás in the performance of its functions.

Section 20 - Corporate plan of An tÚdarás provides that An tÚdarás shall prepare and adopt a corporate plan every 3 years. The corporate plan will

include the objectives, outputs and related strategies for higher education of An tÚdarás, include a review and evaluation of the work of An tÚdarás in the performance of its statutory functions in the previous 3 years, be in accordance with the strategy for tertiary education under *section 33* and the performance framework under *section 35*, and accord with the guidelines, policies and objectives of the Minister and the Government as they relate to the functions of an tÚdarás.

It provides that the first corporate plan will be prepared and submitted to the Minister no later than 6 months after the commencement of *section 7* and each subsequent corporate plan will be prepared and submitted to the Minister no later than 3 months after the expiration of the existing corporate plan. The Minister will lay the corporate plan before the houses of the Oireachtas and it shall be published.

Section 21 - Annual plan of An tÚdarás provides that An tÚdarás shall prepare and submit an annual plan to the Minister, no later than 28 days following notification of the financial allocation by the Minister for the next financial year.

It provides that the annual plan shall outline the proposed activities and related performance targets for An tÚdarás for the period, specify the proposed allocation of the total resources (both financial and persons) of An tÚdarás for the period, specify the monitoring arrangements of the performance targets, specify the reporting arrangements to the Minister, specify how it will have regard to its objects under *section 8* of this legislation, contain any other information specified by the Minister, accord with the guidelines, policies and objectives of the Minister and the Government as they relate to the functions of An tÚdarás and have regard to the corporate plan under *section 20* and the strategy for tertiary education under *section 33* and any direction given by the Minister with regard to the annual plan.

It provides that the Minister may direct An tÚdarás in writing to amend the plan if, in his or her opinion, the plan does not contain the information required or does not comply with this section. An tÚdarás shall inform the Minister of the measures taken with regard to the activities determined and the performance targets and of their outcome and provide that information at intervals specified by the Minister or in the annual report.

Section 22 - Accounts of An tÚdarás provides for the keeping of accounts by An tÚdarás in such form as approved by the Minister with the consent of the Minister for Public Expenditure and Reform; the submission of the accounts for audit to the Comptroller and Auditor General; the submission of the accounts to the Minister immediately after completion of the Audit and the laying of the accounts and the report on the accounts before each House of the Oireachtas.

Section 23 - Annual report of An tÚdarás provides that An tÚdarás prepares and submits to the Minister an annual report by 30th June each year. The annual report shall include information on the performance of the functions of An tÚdarás during the previous year. This report shall be laid before the Houses of the Oireachtas and shall be published in an appropriate manner.

Section 24 - Gifts to An tÚdarás provides that An tÚdarás may accept gifts of money, land or other property with the consent of the Minister and the Minister for Public Expenditure and Reform but shall not accept a gift if the trusts or conditions attaching to it are inconsistent with its functions.

Chapter 6

Chief Executive Officer

Section 25 - Chief Executive Officer provides for the appointment of the Chief Executive Officer by the Board with the consent of the Minister. It also provides for the continuation in office of the Chief Executive Officer who is in place immediately before the commencement of *section 7*. It provides that the Chief Executive Officer may be removed from office by the Board for stated reasons and that the Chief Executive Officer will hold office subject to the terms and conditions determined by the Board with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform. It provides that the Chief Executive Officer shall not hold any other office or employment without the consent of the Board. The Chief Executive Officer shall not be a member of the Board but may attend meetings of the Board.

Section 26 - Functions of Chief Executive Officer outlines the functions of the Chief Executive Officer and provides that the Chief Executive Officer is required to provide information to the Board and can delegate functions to another employee (other than certain functions specified by the Board) but remains accountable for delegated functions. It provides that the Board may designate another employee to perform the functions of the Chief Executive Officer in the absence of the Chief Executive Officer where the position is vacant.

Section 27 - Accountability of Chief Executive Officer to Public Accounts Committee sets out standard provisions for the accountability of the Chief Executive Officer to the Public Accounts Committee.

Section 28 - Accountability of Chief Executive Officer to other Oireachtas Committees sets out standard provisions for the accountability of the Chief Executive Officer to other Oireachtas Committees.

Chapter 7

Staff of An tÚdarás

Section 29 - Staff of An tÚdarás provides that An tÚdarás can employ staff members in accordance with terms and conditions approved by the Minister and the Minister for Public Expenditure and Reform. It provides for the payment of remuneration and allowances for expenses as approved by the Minister with the consent of the Minister for Public Expenditure and Reform. It provides for the secondment of staff members who become a member of either House of the Oireachtas or the European Parliament and it provides that a member of either House of the Oireachtas or the European Parliament cannot become a staff member of An tÚdarás.

Section 30 - Existing staff of An tÚdarás provides that existing staff of An tÚdarás shall become staff of An tÚdarás after the commencement of the Act under the same terms and conditions of service unless an agreement is negotiated with a recognised trade union or staff association.

Section 31 - Superannuation for members of staff of An tÚdarás provides that new appointees to An tÚdarás shall be a member of the Single Public Service Pension Scheme or the superannuation scheme of An tÚdarás as appropriate. It also provides that existing members of An tÚdarás continue in membership of the Single Public Service Pension scheme or the superannuation scheme of An tÚdarás as appropriate. It provides that An tÚdarás may with the Minister's approval amend the superannuation scheme/s of An tÚdarás made under Section 15 of the Higher Education

Authority Act 1971 and it also provides that An tÚdarás may with the Minister's approval amend a scheme made under this section.

Section 32 - Prohibition on unauthorised disclosure by members of staff of An tÚdarás of confidential information provides that a staff member of An tÚdarás or an advisor or consultant to An tÚdarás shall not disclose confidential information related to An tÚdarás.

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

Section 33 - Strategy for tertiary education provides that the Minister will develop a strategy for the provision of tertiary education which shall identify the objectives and outputs for the further education and training and higher education and research system in the State as soon as practicable and no later than 3 years after the commencement of *section 7*. The strategy shall be for a period of not more than 10 years.

The Minister shall in the preparation of the strategy -

- have regard to any relevant national policies, the tertiary education sector, the anticipated cost of implementing any such strategy and the availability of resources.
- consult with any bodies or persons the Minister considers appropriate.

A strategy under this section shall be reviewed by the Minister from time to time and the strategy may be amended following the review.

It provides that the Minister shall publish the strategy and any amended strategy.

Section 34 - Planning for provision of higher education provides that An tÚdarás shall plan for higher education provision by maintaining a continuous review of the demand for higher education. An tÚdarás may for the purpose of maintaining a review of the demand for higher education consult with specified bodies and bodies or persons it considers appropriate.

An tÚdarás shall in the undertaking of a review:

- assess and measure the current number and distribution of students in each of the designated institutions of higher education,
- assess and measure the current number of students in each discipline,
- assess and measure the participation by students in priority groups in higher education, and
- assess the demand for higher education regionally and nationally and in each discipline.

An tÚdarás shall recommend to the Minister the overall provision of student places to be made within the higher education system having regard to specified criteria.

Section 35 - Performance framework provides that An tÚdarás in consultation with the Minister shall prepare at least every 5 years a performance framework for the higher education and research system. The performance framework shall specify the priorities and outcomes at a national level for higher education with public funding; the performance

objectives for the higher education providers that are connected to the provision of funding to those providers; and the implementation, monitoring, assessment and reporting processes to be followed and complied with by higher education providers.

It provides that the performance framework shall take account of the strategy for tertiary education, national policy and objectives and priorities for implementation. It also provides for review and amendment of the framework. There is provision for a regular reporting process to An tÚdarás, the submission of this report to the Minister and the publication by An tÚdarás of the report.

Section 36 - Performance agreements with designated institutions of higher education provides that An tÚdarás shall agree performance agreements with universities, technological universities, institutes of technology and the National College of Art and Design at least every 5 years in consultation with the individual institutions and may agree performance agreements with other designated institutions of higher education.

It provides that the performance agreement shall be in accordance with the performance framework and shall take account of the strategic development plan of the designated institution of higher education and shall include performance objectives and a monitoring, an assessment and a reporting process for the designated institution of higher education.

It provides for review and amendment of the agreement on an annual basis by An tÚdarás in consultation with a designated institution of higher education.

Chapter 2

Provision of funding by An tÚdarás

Section 37 - Provision of funding by An tÚdarás provides that grants may be issued by An tÚdarás to all or any of the following bodies or persons -

- a) a designated institution of higher education,
- b) a higher education provider which is not a designated institution of higher education,
- c) a person or a body which provides support services for higher education, or
- d) other education providers, bodies or persons which provide services consistent with the functions of An tÚdarás,

in such manner and subject to such conditions as may be determined by An tÚdarás.

It provides that An tÚdarás shall prepare and establish a framework with the approval of the Minister for the allocation of funding, which is consistent with the objects and functions of An tÚdarás and in accordance with any policy directions given by the Minister. This framework –

- shall specify the schemes and programmes in respect of which An tÚdarás shall allocate funding to bodies, and will establish such criteria, terms and conditions for the allocation of such funding,
- may specify different criteria, terms and conditions for different funding schemes and programmes,
- may provide that certain funding schemes and programmes are allocated to specified designated institutions of higher education, specified higher education providers, or specified other bodies or persons.

- may provide that specified schemes and programmes may be availed of on the basis of a competitive selection process,
- may provide for a particular scheme or programme to address specific strategic policy priorities with identified policy outcomes,
- may provide for the allocation of funding based on specified performance targets and outcomes,
- may provide for a scheme or programme to increase participation of students in priority groups in higher education, and
- may provide that funding for a scheme or programmes is for a specific time period.

It provides that nothing in this section guarantees the allocation of funding to a designated institution of higher education, other higher education provider, other education provider, other body or person.

Section 38 - Conditions of funding provides that funding to bodies under *section 37* shall be made in such manner and in accordance with such conditions of funding as specified by the Chief Executive Officer.

Section 39 - Information from other bodies relating to funding provides that the Chief Executive Officer may request, and use the information provided by bodies such as the Qualifications and Quality Assurance Authority of Ireland in establishing if an education provider meets the criteria, terms and conditions of the funding framework and ensuring that a funded body is compliant on an ongoing basis with the conditions of funding.

Section 40 - Compliance with conditions of funding provides that a funded body shall provide the Chief Executive Officer with information in relation to the expenditure of the funding provided by An tÚdarás and compliance with conditions of funding or any other relevant information as determined by the Chief Executive Officer.

It provides that if the funded body does not provide the Chief Executive Officer with the information required, the Chief Executive Officer shall request the funded body in writing for the information. Following a review of the information provided, if the Chief Executive Officer is of the opinion that there are serious deficiencies in the continued compliance with the conditions of funding by the funded body, the Chief Executive Officer shall inform the body in writing.

Section 41 - Directions of Chief Executive Officer following review of compliance with conditions of funding provides that where the Chief Executive Officer has carried out a review of compliance with conditions of funding, he or she may following consultation with the funded body, issue appropriate directions in writing regarding continued compliance with the conditions of funding. A funded body issued with such a direction shall comply with the directions and shall provide the Chief Executive Officer with information when requested to do so regarding compliance with the direction.

Section 42 - Remedial and other measures following review of compliance with conditions of funding provides where, following a review, the Chief Executive Officer considers that directions issued to the funded body have not been complied with or there are serious deficiencies in the continued compliance, the Chief Executive Officer may impose remedial or other measures on the funded body. The remedial or other measures that the Chief Executive Officer may impose on the funded body may comprise one or more of the following:

- the exclusion of that body for a specified period from the provision of some or all categories of funding from An tÚdarás,
- the application to that body of revised conditions subject to which funding is, or has been, provided,
- the controlled release to that body of funding by An tÚdarás,
- the withholding of funding due to be paid to that body by An tÚdarás,
- the refund by that body of funding paid to it by An tÚdarás,
- 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,
- the issuing of guidance to the funded body concerned regarding a particular matter or matters relating to funding,
- an admonishment or censure of the funded body concerned, taking into account any professional regulatory requirements or obligations that may be thereby impacted,
- 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,
- 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, and
- the provision to other bodies of information relating to funding as respects the funded body concerned.

It provides that where the Chief Executive Officer proposes to impose a remedial or other measure they shall, inform that body in writing and state the reasons for the proposed imposition of the measure concerned. The funded body may make representations to the Chief Executive Officer which shall be considered. The body may appeal against the decision.

PART 4

STUDENTS.

Section 43 - Engagement with students provides that 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, promote formal engagement between students and designated institutions of higher education and encourage the development of formalised engagement processes between them. This may include the provision of training for students participating as members of the governing body of a designated institution of higher education and a mechanism for the students to request such training. The designated institutions of higher education shall report annually to An tÚdarás on student engagement activities undertaken, training for student members of governing bodies and a summary of issues raised by students and representatives of students and how these issues were addressed.

Section 44 - National student engagement provides that An tÚdarás shall, from time to time, engage with and seek views from representatives of students, including representatives of students in priority groups on 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.

The section also provides that 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. An tÚdarás shall consider the outcome of the engagement in the performance of its functions.

Section 45 - Student surveys provides that An tÚdarás will 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 undertake a student survey at least every 2 years. This will be in respect of undergraduate students and postgraduate students and will collect information to document the student experience in higher education and enhance student engagement, teaching, learning, and assessment at a local and national level. It will also collect information on student opinion on important issues of higher education practice and policy at a local and national level, or other agreed information.

It provides that An tÚdarás shall, in partnership with the relevant bodies publish a report of the findings of each student survey undertaken.

The processing of personal data under this section shall be subject to the Data Protection Regulation and the Data Protection Act 2018.

PART 5

ACCESS, PARTICIPATION AND LIFELONG LEARNING.

Section 46 - Equity of access, participation and promotion of success provides that An tÚdarás shall prepare and submit to the Minister for approval a draft strategic action plan providing for equity of access, participation and promotion of success for a period of up to seven years.

The section also provides that An tÚdarás shall have regard to any policy directions given by the Minister, the likely cost of implementing the proposals contained in any such plan, and the availability of resources. An tÚdarás while preparing the draft plan will consult with the Minister, other specified bodies and other bodies or persons as it considers appropriate.

The section provides that the plan may specify priority groups; the ambition for enabling equity of access, participation and success in the higher education system; the goals, objectives, actions, targets and performance indicators for improving equity of access, participation and success in the higher education system by priority groups; the body or person responsible for the implementation of any action; an evaluation, stakeholder engagements and progress measurement of the plan; and any policy directions given by the Minister.

The section also provides for a review of the plan and that the designated institutions of higher education shall have regard to the plan when they are preparing their strategic development plan and equality statement. The designated institution of higher education is required to report annually to An tÚdarás on the implementation of the plan.

Section 47 - Lifelong and flexible learning provides that notwithstanding the role and responsibility of designated institutions of higher education for the development and provision of lifelong and flexible learning in their respective institution, An tÚdarás will promote and support designated institutions of higher education in the development and provision of lifelong and flexible learning. It also provides that An tÚdarás shall support the implementation of procedures for access, transfer and progression by designated institutions of higher education which have been approved

under the Qualifications and Quality Assurance (Education and Training) Act 2012.

PART 6

DATA PROTECTION.

Section 48 - Supply of non-personal data provides that designated institutions of higher education and funded bodies shall provide to An tÚdarás any non-personal data requested by An tÚdarás, in the format so requested, regarding the body, the students attending the body or the staff of the body which An tÚdarás requires to perform its functions. It lists some of the types of data required and provides that the Minister may specify by order other types of data for collection by An tÚdarás. This section also provides that An tÚdarás can make a written direction to the body to provide this information. This section provides that subject to the Data Protection Regulation and the Data Protection Act 2018, An tÚdarás may publish the information which it receives in such form or manner as is deemed appropriate.

Section 49 - Supply of personal data provides that designated institutions of higher education and funded bodies shall provide to An tÚdarás certain personal data requested by An tÚdarás, as necessary and proportionate, which An tÚdarás requires to perform certain functions under *sections 9 (1) (b), (c), (d), (j), (k), (m) and (r)*.

The section lists the information required and provides that the Minister may specify by order other types of information for collection by An tÚdarás. This section also provides that An tÚdarás can make a written direction to the body to provide this information. This section provides that subject to the Data Protection Regulation and the Data Protection Act 2018, An tÚdarás may publish the information which it receives in such form or manner as is deemed appropriate.

Section 50 - Furnishing of non-personal data provides that An tÚdarás may share non-personal information with a designated institution of higher education, a funded body, a public body or any other body An tÚdarás considers appropriate. It also provides that other public bodies may share non-personal information with An tÚdarás.

Section 51 - Furnishing of personal data provides that An tÚdarás may share personal information as necessary and proportionate with other bodies and other public bodies may share personal information with An tÚdarás subject to the Data Protection Regulation, the Data Protection Act 2018 and the Data Sharing and Governance Act 2019. The section provides that the personal information to be shared shall be as is necessary and proportionate and for the purpose of fulfilling the functions of An tÚdarás with respect to *sections 9 (1) (b), (c), (d), (j), (k), (m) and (r)*.

Section 52 - Research by An tÚdarás provides that An tÚdarás may carry out studies and research on any issue related to its functions and that it may appoint a person, body or higher education provider to conduct the study or research on its behalf. It provides that the designated institution of higher education, funded body or education provider must provide information subject to the Data Protection Regulation and the Data Protection Act 2018 and co-operate with the study or research as required. It also provides that An tÚdarás may publish reports of such studies and research.

PART 7

DESIGNATED INSTITUTIONS OF HIGHER EDUCATION

Chapter 1

Designated institutions of higher education

Section 53 - Designated institutions of higher education provides that certain higher education institutions are automatically classified as designated institutions of higher education for the purposes of this Act. The higher education institutions which are automatically classified as designated institutions of higher education are universities, institutes of technology, technological universities, the National College of Art and Design and education providers which have received a university authorisation order under the Universities Act 1997. This section also provides that other higher education providers may be designated by Order as designated institutions of higher education under the Act.

Chapter 2

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

Section 54 - Designation by order of higher education provider as designated institution of higher education provides that the Minister may designate by order a higher education provider as a designated institution of higher education, provided that s/he is satisfied that the conditions for such designation are complied with by the higher education provider.

It provides that a higher education provider may make an application to An tÚdarás for designation as a designated institution of higher education. An tÚdarás may request additional information in writing from the higher education provider and from appropriate other bodies such as the Qualifications and Quality Assurance Authority of Ireland. An tÚdarás may appoint an advisory panel, that may include national and international experts in higher education, to advise whether a higher education provider meets the conditions set out.

It provides that An tÚdarás shall, from time to time, submit to the Minister in writing the names of higher education providers which have applied for designation and an opinion of An tÚdarás on whether they meet the conditions for designation as a designated institution of higher education, and the grounds on which that opinion is based. An tÚdarás shall provide further information as the Minister may request in respect of the higher education providers whose names are submitted. It provides that the Minister shall within 6 months, having considered the information and consulted with An tÚdarás decide to make or to refuse to make a designation order in respect of the higher education provider. Where the Minister makes a decision to refuse to make a designation order in respect of a higher education provider, the higher education provider may, appeal against that decision within a prescribed period.

Section 55 - Conditions to be complied with for making of designation order specifies the conditions to which a higher education provider must comply with in order that a designation as an institution of higher education order is made in respect of that higher education provider. The section provides that these conditions are made by regulation by the Minister in consultation with An tÚdarás.

Section 56 - Continuing obligation to comply with conditions for designation provides that a designated institution of higher education which

has been designated by order shall continue to comply with the conditions for designation. It provides that a designated institution of higher education which has been designated by order shall inform An tÚdarás if a significant material change occurs which could reasonably affect its ability to meet the conditions of designation.

Section 57 - Review of compliance with conditions for designation provides that An tÚdarás shall 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 is being complied with as respects the providers.

It provides that An tÚdarás shall undertake a review -

- at the request of the Minister,
- if An tÚdarás has been informed of a change of circumstances by a designated institution of higher education or the occurrence of an event which could reasonably affect the capacity of that provider to comply with the continuing conditions for designation,
- if An tÚdarás is of the opinion that a significant material change may have occurred which could reasonably affect the ability of the designated institution of higher education concerned to comply with the conditions for designation, and
- from time to time as An tÚdarás thinks appropriate.

It provides that where a review is being conducted An tÚdarás shall request the higher education provider concerned to provide information and the higher education provider shall provide that information. Following the review, An tÚdarás shall prepare a report setting out the results of the review and shall provide a copy of the report prepared to the higher education provider concerned and the higher education provider may submit in writing any observations it has on the report to An tÚdarás. After consideration of any observations submitted, An tÚdarás may make any amendments to the report that An tÚdarás considers appropriate. An tÚdarás shall provide a copy of the final report to the higher education provider and shall publish the report in such form and manner as it thinks appropriate.

Section 58 - Directions of An tÚdarás following review of compliance with conditions for designation provides that where An tÚdarás has carried out a review under *section 57*, it may, following consultation with the higher education provider issue directions, in writing, in relation to its continued compliance with the conditions for designation.

The higher education provider is required to comply with the direction and provide An tÚdarás with related information when requested to do so.

Section 59 - Revocation of designation order provides that the Minister may make an order revoking the designation if a designated institution of higher education is not complying with the conditions for designation or where a designated institution of higher education has made an application for the revoking of the designation order.

If following a review An tÚdarás considers that the directions issued to a designated higher education provider have not been complied with, or there are serious deficiencies in the continued compliance An tÚdarás shall consider whether there are grounds for the making by the Minister of a revocation order.

An tÚdarás may request, in writing information from the designated higher education provider and may request and use the information provided by appropriate bodies such as the Qualifications and Quality Assurance Authority of Ireland. An tÚdarás may appoint an advisory panel, that may include national and international experts in higher education, to advise whether a higher education provider meets the conditions for designation as a designated institution of higher education.

An tÚdarás shall also inform in writing by a notice to the higher education provider that An tÚdarás proposes to seek to have a revocation order made by the Minister and the reasons for its opinion. The higher education provider concerned may make representations to An tÚdarás and where after considering any representations, An tÚdarás, decides to proceed to seek a revocation order by the Minister, An tÚdarás shall inform the provider by notice in writing of that decision. The Minister may then, having considered the information provided and having consulted with An tÚdarás, decide to make a revocation order in respect of that provider. The provider may, appeal against that decision.

Where a higher education provider makes an application for revocation, An tÚdarás shall inform the Minister and the Minister shall inform that provider, in writing, that a revocation order will be made and of the date on which the order shall come into operation.

Section 60 - Use of title “designated institution of higher education” provides that a designated institution of higher education may use the title “Designated Institution of Higher Education” to describe itself and it precludes a body which is not a designated institution of higher education from using that title. It provides that An tÚdarás may apply to the High Court for an injunction to restrain any person from using the title “Designated Institution of Higher Education” if it is not a designated institution of higher education.

Chapter 3

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

Section 61 - Strategic development plan of certain designated institutions of higher education provides that a designated institution of higher education which is not already obligated by sectoral legislation to do so, shall prepare a strategic development plan and provide it to An tÚdarás. The plan shall be for a specified period not longer than 5 years.

The provisions in this section apply to a university in receipt of a university authorisation order under the Universities Act 1997. Universities, technological universities, institutes of technology are excluded from this provision as there are existing provisions in place for the preparation of strategic development plans under the Universities Act 1997, the Technological Universities Act 2018 and the Institutes of Technology Acts 1992 – 2006. The National College of Art and Design is excluded from this provision as this Bill is amending the National College of Art and Design Act 1971 to include provisions for strategic development plans.

Section 62 - Equality statement of certain designated institutions of higher education provides that a designated institution of higher education which is not already obligated by sectoral legislation to do so, will be required to prepare an Equality Statement. The equality statement shall specify the policy of the designated institution of higher education for enabling access to it, and the education it provides, by priority groups of students and the policy of the designated institution of higher education relating to equality,

including gender equality, in all activities of the designated institution of higher education.

The provisions in this section apply to a university in receipt of a university authorisation order under the Universities Act 1997. Universities, technological universities, institutes of technology are excluded from this provision as there are existing provisions in place for the preparation of equality statements under the Universities Act 1997, the Technological Universities Act 2018 and the Institutes of Technology Acts 1992 – 2006. The National College of Art and Design is excluded from this provision as this Bill is amending the National College of Art and Design Act 1971 to include provisions for equality statements.

Section 63 - Accounts of certain higher education providers provides that a designated institution of higher education or a funded higher education provider which is not already obligated by sectoral legislation to do so, shall keep all proper and usual accounts. It also provides that the accounts are audited and a copy of the audited accounts should be submitted to An tÚdarás and published within a specified time period.

The provisions in this section apply to a university in receipt of a university authorisation order under the Universities Act 1997. Universities, technological universities, institutes of technology and the National College of Art and Design are excluded from this provision as there are existing provisions in place for accounts under the Universities Act 1997, the Technological Universities Act 2018, the Institutes of Technology Acts 1992 – 2006 and the National College of Art and Design Act 1971.

PART 8

OVERSIGHT BY AN TÚDARÁS OF DESIGNATED INSTITUTIONS OF HIGHER EDUCATION

Section 64 - Review of matter and report to An tÚdarás provides that the Chief Executive Officer may request the governing body of a designated institution of higher education to undertake a review where there are concerns about the governance or performance of a designated institution of higher education of its functions or responsibilities including in relation to requirements under any Codes, Guidelines or Policies or other relevant obligations.

The Chief Executive Officer shall issue a written request to the governing body of the designated institution of higher education specifying the matter to be reviewed and the reason for the review. The governing authority or governing body of the designated institution of higher education shall arrange for an appropriate review of the matter and provide a report of the matter to the Chief Executive Officer within 60 days and the timeframe can be extended by 30 days with the approval of the Chief Executive Officer. The Chief Executive Officer may determine that no further action is necessary or make a determination for action following consideration of this report. The Chief Executive Officer shall provide a copy of the report to the Minister and may publish this report in such form or manner as is deemed appropriate.

Section 65 - Determination of matter by the Chief Executive Officer provides that the Chief Executive Officer may make a determination for action following consideration of a report under section 64 if he or she is not satisfied that his/her concerns regarding the performance by the designated institution of higher education have been adequately addressed and resolved, or if the designated institution of higher education concerned does not undertake a review or prepare and submit a report to the Chief

Executive Officer as requested in accordance with section 64. The determination may include all or any of the following actions:

- the provision of assistance to the institution concerned,
- the imposition of remedial measures as respects the institution concerned,
- the provision of information to such other bodies as the Chief Executive Officer considers appropriate, or
- the undertaking of a review of the institution concerned with the approval of the Board.

It provides that a determination to impose remedial measures may be appealed by the designated institution of higher education.

The Chief Executive Officer may publish any determination for action in such form or manner as is deemed appropriate.

Section 66 - Provision of assistance by An tÚdarás provides that An tÚdarás may provide assistance to a designated institution of higher education following a determination for action. The Chief Executive Officer will provide written notice of the duration and the type of assistance to be provided, which may comprise one or more of the following actions:

- appointment by the Chief Executive Officer of a person or persons or a body to provide specialist assistance to the designated institution of higher education for a specified period,
- the issuing of guidance to the designated institution of higher education regarding a particular matter or matters, or
- the issuing of directions to the designated institution of higher education regarding a particular matter or matters for a specified period.

The section provides details regarding the specialist assistance which may be provided by the person, persons or body appointed by the Chief Executive Officer. It also provides that a designated institution of higher education will comply with this advice, guidance, recommendations, directions or agreed plans and that the Chief Executive Officer will review the provision of assistance at the end of the specified period and may:

- determine that no further assistance under this section is required to be provided to that institution,
- extend for such period as it considers appropriate the provision of assistance under this section to that institution, or
- determine that a different form of assistance be provided to that institution.

The section provides that the Chief Executive Officer may also provide assistance following a written request for assistance from a designated institution of higher education.

Section 67 - Remedial and other measures provides that the Chief Executive Officer may impose remedial measures on a designated institution of higher education following a determination for action. The Chief Executive Officer will provide written notice and the duration of the type of remedial measure to be imposed, which may comprise one or more of the following actions:

- admonishment or a censure taking into account any professional regulatory or obligations that may be thereby impacted,

- requirement for members of the institution to undertake a course of training on matters related to governance,
- imposition of an issue rectification plan with specified targets and monitoring requirements,
- review of Strategic Development Plan,
- temporary exclusion from particular categories of grants from An tÚdarás,
- the application of revised conditions of funding,
- controlled release of funding,
- withholding of a grant due to be paid to the designated institution of higher education, or
- refund of a grant paid by An tÚdarás to a designated institution of higher education.

The section provides that the Chief Executive Officer will review the imposition of the remedial measures at the end of the specified period and may:

- determine that no further remedial measure or measures under this section are required to be taken by the institution,
- extend for such period as it considers appropriate the requirement under this section for a remedial measure or measures to be taken by the institution,
- provide for the payment to the institution of a grant that is withheld by An tÚdarás, or
- determine that a different type of remedial measure or measures is or are required to be taken by the institution.

Section 68 - Furnishing of information to other bodies provides that the Chief Executive Officer shall provide information to the Qualifications and Quality Assurance Authority of Ireland following a determination for action on any issue concerning a designated institution of higher education relating to specified functions under the Qualifications and Quality Assurance (Education and Training) Act 2012.

This section also provides that the Chief Executive Officer shall provide information to appropriate other bodies on any issue concerning a designated institution of higher education that relates to the performance of that body as respects that institution.

Section 69 - Appointment of reviewer of designated institutions of higher education provides that the Chief Executive Officer with the approval of the Board may appoint a person to carry out a review of a designated institution of higher education in accordance with a determination for action. The Chief Executive Officer shall inform the governing body in writing of the appointment of a reviewer and the matter to be reviewed. Employees and members of the governing body of the designated institution of higher education shall provide such assistance and information as the reviewer may reasonably require.

It also provides that the reviewer shall prepare a draft of the report and furnish the draft report to An tÚdarás, the governing body of any designated institution of higher education reviewed and to any other person they consider necessary and they may make representations concerning the draft report. The reviewer having considered any representations made may amend the draft report and shall furnish the final report on the review

to An tÚdarás and An tÚdarás shall furnish the final report on the review to the Minister. An tÚdarás may publish the report in such form or manner as is deemed appropriate.

An tÚdarás shall consider the report of the review and may make a determination for action.

PART 9

APPEALS

Section 70 - Appeals board provides for the establishment of an Appeals Board by the Minister within 28 days of receipt of an appeal. Appeals can be made under sections –

- 42(6) – imposition of remedial measures following review of compliance with conditions of funding,
- 54(12) – refusal to make a designation order in respect of a higher education provider,
- 59(13) – the revocation of a designation order in respect of a higher education provider, or
- 65(4) – the imposition of remedial measures following the review and report by a designated institution of higher education.

The Minister shall appoint 2 people with a special interest or expertise in, or knowledge of, higher education and 1 person who is a practising solicitor or barrister. The section provides for the terms and conditions of membership, appointment, resignation and removal from an Appeals Board.

Section 71 - Determination of appeal by appeals board provides that an appeal shall be lodged with the Minister in accordance with the procedures prescribed under section 72. This section includes provisions for refusal to hear an appeal, holding hearings, presenting evidence and adjourning the hearing. The decisions are made by a majority of the members of an Appeals Board and in determining an appeal, an Appeals Board may affirm or quash the decision of the Chief Executive Officer or the Minister and the Chief Executive Officer or the Minister shall reconsider its decision.

The section provides that the Appeals Board is independent in the performance of its functions.

Section 72 - Appeal procedures provides that the Minister shall prescribe procedures for the hearing and determination of the appeals provided for in this Act, following consultation with An tÚdarás and that different procedures may be prescribed for appeals under different provisions of the Act.

PART 10

AMENDMENTS OF UNIVERSITIES ACT 1997

Sections 73 to 84 amend certain aspects of the Universities Act 1997.

Section 73 – Amendment of section 4 (1) of Act of 1997 provides for the amendment of subsection 4(1) to delete the reference to subsection 4(2). Subsection 4(2), (3) and (4) provide an exemption to Trinity College from certain sections of the Universities Act 1997 if within a period of three years a Private Act is passed by the Oireachtas amending in a manner consistent with the purpose and substance of those sections, the charters and letters patent under with Trinity College and the University of Dublin are incorporated.

Subsections 4 (2), (3) and (4) of the Universities Act 1997 will be repealed by this Bill and the exemptions will no longer apply to Trinity College.

Section 74 – Composition of governing authority of university provides for an updated framework for governing authorities of universities by reducing the size of governing authority membership to 17 members and changing the composition of the governing authority to ensure best practices around university governance.

A governing authority shall consist of 1 chairperson (external), 2 students, 1 chief officer, 5 internal members (other than chief officer), 3 externals nominated by Minister, 5 externals (other than the chairperson) appointed by the governing authority. The external members will be appointed based on competency. The composition of the governing authority shall be in accordance with gender balance requirements and reflect Irish society.

Section 75 – Provisions relating to Trinity College, Dublin provides that the governing authority of Trinity College Dublin shall comprise of 17 members and such additional members who are fellows of the College provided that the total number of external members (including the chairperson) does not represent less than 40% of the overall composition of the governing authority.

The additional members are in recognition of the distinct legal basis of Trinity and particularly the distinct role played by Fellows within the Trinity community, including within the governance of the College.

This section also amends the Trinity College Supplemental Letters Patent of 1911 (as amended by the Trinity College Dublin (Charters and Letters Patent Amendment) Act 2000). This amends the provisions regarding the Trinity College Board in the Supplemental Letters Patent of 1911 to be in accordance with the provisions of the Universities Act 1997.

This section also provides that if An tÚdarás has a concern regarding a matter relating to the governance of Trinity College Dublin or the performance by Trinity College Dublin of its functions or compliance by it with its obligations it may request the Visitors of Trinity College to conduct a General Visitation in accordance with the statutes of Trinity College as respects the matter. The Visitors of Trinity College shall conduct a General Visitation if they are satisfied that there are reasonable grounds for a General Visitation and that it is appropriate to do so. The Visitors of Trinity College shall report in writing to An tÚdarás and furnish a copy of the report to the governing authority of Trinity College Dublin.

Section 76 – Chairperson of governing authority provides that the chairperson of the governing authority shall be appointed by a majority vote of not less than two-thirds of and that the chairperson is an external member of the governing authority.

Section 77 - Amendment of section 18 of Act of 1997 adds additional functions to section 18 of the Universities Act 1997 to ensure good governance practice.

Section 78 - Review of matter and report by governing authority of university provides that the governing authority can carry out a review of a matter if it has concerns regarding the governance or performance of the functions or responsibilities of the university. The governing authority may appoint a person to carry out the review and the reviewer may request information from the governing authority, chief officer and members of staff of the university and they shall supply the requested information. The reviewer shall prepare a report for the governing authority and the chief officer and the governing authority shall take any recommended appropriate

corrective action. The governing authority shall keep a copy of the report and report annually or on request to An tÚdarás on any reviews undertaken.

Section 79 – Transitional arrangements for membership and chairperson of governing authority provides that the governing authority shall with the approval of the Minister determine the arrangements and procedures to be put in place to ensure that the governing authority of the university complies with sections 16 and 16A inserted by this Act within 12 months.

Section 80 - Amendment of section 34 of Act of 1997 provides for consultation by the governing authority on the preparation of the strategic development plan.

Section 81 - Amendment of section 36 of Act of 1997 provides for consultation by the governing authority on the preparation of the equality policy.

Section 82- Amendment of section 37 of Act of 1997 amends this section to provide that the Chief Officer is responsible for preparing the budget of the University, with the governing authority having the responsibility for giving or withholding its approval for the budget and recommending the approved budget to An tÚdarás.

This section also amends Section 37 of the Universities Act 1997 to provide that if the Chief Officer has concerns regarding the actual expenditure in a year or a proposed course of action exceeding the budget for the year s/he will inform the governing authority of those concerns and if no action is taken shall inform An tÚdarás.

Section 83 - Amendment of Third Schedule to Act of 1997 amends the Third Schedule to provide that whenever the chairperson of the governing authority resigns he or she shall at the same time cease to be a member of the governing authority; provides for a limit of 8 consecutive years and 2 consecutive terms of office of the governing authority; includes provisions for a member of the governing authority to cease being a member of the governing authority; includes the requirement for the governing authority to hold a minimum of six meetings per year; includes the requirement for a majority of external members as part of the quorum of the governing authority and provision for members of the governing authority other than an *ex officio* member who is an employee of a university to receive remuneration subject to the approval of the Minister and the Minister for Public Expenditure and Reform.

Section 84 - Amendment of Fourth Schedule to Act of 1997 amends the Fourth Schedule to include provisions that the chief officer may make proposals to the governing authority on any matter relating to its functions, shall provide the governing authority with information in relation to the performance of his or her functions and may designate an employee of the university to perform the functions of the chief officer in the absence of the chief officer. It also provides for the removal of the provision that the chief officer shall be entitled to be a member of and preside over every committee appointed by the governing authority.

PART 11

AMENDMENT OF TECHNOLOGICAL UNIVERSITIES ACT 2018

Sections 85 to 93 amend certain aspects of the Technological Universities Act 2018.

Section 85 - Amendment of Section 8(1) of Act of 2018 is amended to provide that the Minister for Public Expenditure and Reform should not have a legislative role in relation to property transactions in this sector.

Section 86 - Amendment of section 11 of Act of 2018 adds additional functions for governing bodies to section 11 of the Technological Universities Act 2018 to ensure good governance practice.

Section 87 - Membership of governing body of technological university provides for an updated framework for governing bodies of technological universities by reducing the size of governing body membership to 17 members and changing the composition of the governing body to ensure best practices around technological university governance.

A governing body shall consist of 1 chairperson (external), 2 students, 1 chief officer, 5 internal members (other than chief officer), 3 externals nominated by Minister, 5 externals (other than the chairperson) appointed by the governing body. The external members will be appointed based on competency. The composition of the governing body shall be in accordance with gender balance requirements and reflect Irish society.

Section 88 – Transitional arrangements for membership and chairperson of governing body provides that the governing body shall with the approval of the Minister determine the arrangements and procedures to be put in place to ensure that the governing body of the technological university complies with section 12 inserted by this Act within 12 months.

Section 89 - Amendment of section 18 of Act of 2018 provides for consultation by the governing body on the preparation of the strategic development plan.

Section 90 - Amendment of section 19 of Act of 2018 provides for consultation by the governing body on the preparation of the equality policy.

Section 91 - Amendment of section 22(3) of Act of 2018 provides that the technological university shall furnish the accounts and the report of the Comptroller and Auditor General to An tÚdarás as well as the Minister.

Section 92 - Review of matter and report by governing body of technological university provides that the governing body can carry out a review of a matter if it has concerns regarding the governance or performance of the functions of the technological university. The governing body may appoint a person to carry out the review and the reviewer may request information from the governing body, the President and employees of the technological university and they shall supply the requested information. The reviewer shall prepare a report for governing body and the President and the governing body shall take any recommended appropriate corrective action. The governing body shall keep a copy of the report and report annually or on request to An tÚdarás on any reviews undertaken.

Section 93 – Amendment of Schedule 1 to Act of 2018 amends Schedule 1 to permit the governing body to pay the chairperson and members of the governing body, other than the President, remuneration and allowances for expenses as determined by the Minister with the approval of the Minister for Public Expenditure and Reform and includes a reference to committees relating to audit and risk management functions in the section providing that the governing body may establish committees.

PART 12

AMENDMENT OF REGIONAL TECHNICAL COLLEGES ACT 1992 AND REGIONAL TECHNICAL COLLEGES (AMENDMENT) ACT 1994

Sections 94 to 104 amend certain aspects of the Regional Technical Colleges Act and the Regional Technical Colleges (Amendment) Act.

Section 94 – Amendment of section 2 of Act of 1992 provides for new definitions for regulations of the college, student and student union.

Section 95 - Amendment of Section 3(5) of Act of 1992 provides for the amendment of the Establishment of colleges section to provide that Ministerial approval is required to acquire, hold and dispose of land.

Section 96 - Amendment of section 5(1) of Act of 1992 provides for the amendment of the Functions of colleges section to provide that Ministerial approval is required to acquire, hold and dispose of land, an interest in land or any other property.

Section 97 – Governing bodies of colleges provides for an updated framework for governing bodies of institutes of technology by reducing the size of governing body membership to 17 members and changing the composition of the governing body to ensure best practices around institute of technology governance.

A governing body shall consist of 1 chairperson (external), 2 students, 1 chief officer, 5 internal members (other than chief officer), 3 externals nominated by the Minister, 5 externals (other than the chairperson) appointed by the governing body. The external members will be appointed based on competency. The composition of the governing body shall be in accordance with gender balance requirements and reflect Irish society.

Section 98 – Transitional arrangements for membership and chairperson of governing bodies provides that the governing body shall with the approval of the Minister determine the arrangements and procedures to be put in place to ensure that the governing body of the college complies with section 6 inserted by this Act within 12 months.

Section 99 - Amendment of section 7 of Act of 1992 adds additional functions for governing bodies to section 7 of the Act to ensure good governance.

Section 100 - Amendment of section 21C of Act of 1992 provides for consultation by the governing body on the preparation of the strategic development plan.

Section 101 - Amendment of section 21D of Act of 1992 provides for consultation by the governing body on the preparation of the equality policy.

Section 102 - Review of matter and report by governing body of college provides that the governing body can carry out a review if it has concerns regarding the governance or performance of the functions of the college. The governing body may appoint a person to carry out the review and the reviewer may request information from the governing body, the Director and employees of the college and they shall supply the requested information. The reviewer shall prepare a report and provide it to the governing body and the Director and the governing body shall take any recommended appropriate corrective action. The governing body shall keep a copy of the report and report annually or on request to An tÚdarás on any reviews undertaken.

Section 103 - Amendment of Second Schedule to Act of 1992 provides for the inclusion of updated provisions for governing bodies including the provision that members of the governing body (other than the Director) may receive remuneration subject to the approval of the Minister and the Minister for Public Expenditure and Reform.

Section 104 - Amendment of section 2(1) of Regional Technical Colleges (Amendment) Act 1994 provides for the appointment of a commission to an institute of technology by the Minister following an investigation if the

Minister is satisfied that the affairs of the institute of technology are not being managed in an effective manner.

This section replaces the reference to an investigation with a reference to a review under the Higher Education Authority Act as the provision for an investigation of an institute of technology has been removed by this legislation.

PART 13

AMENDMENT OF NATIONAL COLLEGE OF ART AND DESIGN ACT 1971

Sections 105 to 118 amend certain aspects of the National College of Art and Design Act.

Section 105 - Amendment of section 1(1) of Act of 1971 provides for an update of definitions to include definitions of Academic Council and An tÚdarás. It amends the definition of “student of the college” to include 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. This will permit such an officer to represent students on the governing body (An Bord) of the National College of Art and Design.

Section 106 - Amendment of section 4(2) of Act of 1971 provides that Ministerial consent is needed to acquire, hold and dispose of land, an interest in land or any other property.

Section 107 - Amendment of section 5 of Act of 1971 adds additional functions for An Bord to section 5 of the National College of Art and Design act to provide for good governance by An Bord.

Section 108 - Academic freedom provides for academic freedom of An Bord and the academic staff of the College.

Section 109 - Amendment of section 7 of Act of 1971 amends to provide that the term of office of members of An Bord other than the Director is increased to four years from the current three years.

Section 110 - Amendment of Section 10 of Act of 1971 amends to provide that members of An Bord may receive remuneration subject to the approval of the Minister and the Minister for Public Expenditure and Reform.

Section 111 - Amendment of section 13 of Act of 1971 amends to provide that An Bord shall hold at least 4 meetings in any 12 month period and to allow for a regulation making power for An Bord for the conduct of the procedures and business of An Bord.

Section 112 - Amendment of section 15 of Act of 1971 provides for the amendment to allow that the National College of Art and Design shall furnish the accounts and the report of the Comptroller and Auditor General to An tÚdarás as well as the Minister.

Section 113 - Review of matter and report by An Bord provides that An Bord can carry out a review if it has concerns regarding the governance or performance of the functions of the college. An Bord may appoint an appropriate person to carry out the review. The reviewer may request information from An Bord, the Director and they shall supply the requested information. The reviewer shall prepare a report and provide a copy to An Bord and the Director and An Bord shall take any recommended appropriate corrective action. An Bord shall keep a copy of the report and report annually or on request to An tÚdarás on any reviews undertaken.

Section 114 - Amendment of section 17 of Act of 1971 provides that the provisions of the new schedule 2 which are being inserted in the National College of Art and Design Act 1971 apply to the Director. This section also

removes from subsection 17 (3) the provision that the registrar shall keep the accounts of An Bord. Normal practice is that An Bord shall keep the accounts and this is provided for in section 15 of the Act.

Section 115 - Academic council of College and its functions provides for the establishment of an Academic Council by An Bord. It sets out general terms for the Academic Council and allows for An Bord to make and provide the relevant regulations.

It also provides that the Academic Council shall control the academic affairs of the College, including the curriculum of, and instruction and education provided by, the College and provides the general functions of the academic council.

Section 116 - Strategic development plan of College provides for consultation by the College on the preparation of the strategic development plan.

Section 117 - Equality statement of College provides for consultation by the College on the preparation of the equality statement.

Section 118 - Provisions relating to Director of College provides for the addition of a schedule providing for the role of the Director.

PART 14

AMENDMENT OF STUDENT SUPPORT ACT 2011

Sections 119 and 120 amend certain aspects of the Student Support Act 2011.

Section 119 - Amendment of section 12 of Student Support Act 2011 provides that the Minister may make regulations prescribing such additional functions as considered necessary on an awarding authority for the awarding of supports other than grants such as scholarships and bursaries to persons who suffer educational disadvantage to facilitate them accessing further and higher education.

Section 120 - Amendment of section 19(6) of Student Support Act 2011 provides that an Awarding Authority can recover payments made to a student or on behalf of a student, for which the student was not entitled to receive, in any one year or subsequent years. This amendment is technical in nature.

PART 15

AMENDMENT OF INDUSTRIAL TRAINING ACT 1967

Sections 121 and 122 amend certain aspects of the Industrial Training Act 1967

Section 121 - Amendment of section 2 of Industrial Training Act 1967 amends to have the effect of extending the scope of the framework for apprenticeship set out in the Industrial Training Act.

Section 122 - Amendment of section 23(2) of Industrial Training Act 1967 provides that an tSeirbhís Oideachais Leanúnaigh agus Scileanna shall consult with appropriate bodies prior to making an industrial Training Order and this amendment includes the competent authorities of a regulated profession in the consultation requirement.

PART 16

AMENDMENT OF SOCIAL WELFARE CONSOLIDATION ACT 2005

Section 123 - Amendment of section 266 of Social Welfare Consolidation Act 2005 Section 266 of the Social Welfare Consolidation Act 2005 provides that a specified body may share any information prescribed with An tÚdarás um Ard-Oideachas in accordance with Section 3 (a), (b) or (d) of the Higher Education Authority Act 1971. This section replaces this with a reference to An tÚdarás and the relevant functions of the Higher Education Authority Act 2022.

PART 17

Amendment of National Treasury Management Agency (Amendment) Act 2014

Section 124- Amendment of section 26(1) of National Treasury Management Agency (Amendment) Act 2014 amends to allow for procurement on behalf of the Minister for Further and Higher Education, Research, Innovation and Science and for local authorities in the same way as is currently the provision for the Minister for Education.

PART 18

MISCELLANEOUS PROVISIONS

Section 125 - Names of designated institutions of higher education provides that An tÚdarás shall, from time to time, publish the names of the designated institutions of higher education and shall do so after a designation or revocation order is made in respect of a higher education provider.

Section 126 - Guidelines, codes and policies provides that 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, any other enactment, or the implementation of any policy or objective of the Minister or the Government. An tÚdarás shall, in the preparation or adoption of these guidelines, codes or policies consult with other appropriate bodies. The Minister may give a direction in writing to An tÚdarás to develop guidelines, codes or policies.

It provides that An tÚdarás may publish the guidelines, codes or policies adopted and that 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 or policies adopted.

Section 127 - Service of notices provides for the methods of sending a notice.

Section 128 - Consequential amendments of enactments provides for consequential amendments of enactments in Schedule 4.

SCHEDULE 1

ENACTMENTS REPEALED

This schedule provides the enactments to be repealed by this Act:

- Higher Education Authority Act 1971, the entirety of,
- National College of Art and Design Act 1971, Sections 15A and 16(3) and (4);
- Regional Technical Colleges Act 1992, Sections 7(4) and (5) and 14(2A) and (4) and 20,

- Universities Act 1997 Subsection (2), (3) and (4) of Section 4 and Sections 19, 20, 21 and 50, and
- Technological Universities Act 2018 Sections 26 and 27(2) and (3), 80 (b), 82, 83, 84, and 91.

SCHEDULE 2

BOARD OF AN tÚDARÁS

This schedule provides detailed regulations regarding the operation of the Board of An tÚdarás.

SCHEDULE 3

SUPERANNUATION

The schedule provides the detail regarding the making of a scheme amending the existing superannuation schemes of An tÚdarás made under Section 15 of the Higher Education Authority Act 1971.

SCHEDULE 4

CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

This schedule provides a detailed list of amendments to other enactments, primarily definitions to ensure compatibility with this legislation.