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**AN BILLE UM CHÁILÍOCHTAÍ AGUS DEARBHÚ  
CÁILÍOCHTA (OIDEACHAS AGUS OILIÚINT), 2011  
QUALIFICATIONS AND QUALITY ASSURANCE  
(EDUCATION AND TRAINING) BILL 2011**

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*Mar a tionscnaíodh  
As initiated*

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CÁILÍOCHTA (OIDEACHAS AGUS OILIÚINT), 2011  
QUALIFICATIONS AND QUALITY ASSURANCE  
(EDUCATION AND TRAINING) BILL 2011**

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**BILL**

*entitled*

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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A  
BODY KNOWN IN THE IRISH LANGUAGE AS ÚDARÁS  
NA hÉIREANN UM CHÁILÍOCHTAÍ AGUS DEARBHÚ  
CÁILÍOCHTA OR IN THE ENGLISH LANGUAGE THE  
QUALIFICATIONS AND QUALITY ASSURANCE AUTH-  
ORITY OF IRELAND; TO DEFINE ITS FUNCTIONS; TO  
PROVIDE FOR THE DISSOLUTION OF THE NATIONAL  
QUALIFICATIONS AUTHORITY OF IRELAND, THE  
HIGHER EDUCATION AND TRAINING AWARDS  
COUNCIL AND THE FURTHER EDUCATION AND  
TRAINING AWARDS COUNCIL; TO REPEAL THE  
QUALIFICATIONS (EDUCATION AND TRAINING) ACT  
1999; TO AMEND THE HIGHER EDUCATION AUTH-  
ORITY ACT 1971, THE REGIONAL TECHNICAL  
COLLEGES ACT 1992, THE FREEDOM OF INFOR-  
MATION ACT 1997, THE UNIVERSITIES ACT 1997 AND  
CERTAIN OTHER ACTS; AND TO PROVIDE FOR  
MATTERS CONNECTED THEREWITH.

25 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Qualifications and Quality Assurance (Education and Training) Act 2011. Short title and commencement.

30 (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

35 (3) An order under *subsection (2)* may, in respect of the repeal of the Act of 1999 or the provision of the Act of 1997, specified in *Part 1* of *Schedule 2*, and the revocation of the statutory instrument specified in *Part 2* of that Schedule effected by *section 6*, appoint

different days for the repeal of those Acts or different provisions of them and the revocation of different provisions of that statutory instrument.

Interpretation.

2.—(1) In this Act—

“access, transfer and progression”, in relation to learners, shall be construed in accordance with *subsection (5)*; 5

“Act of 1908” means the Irish Universities Act 1908;

“Act of 1997” means the Universities Act 1997;

“Act of 1999” means the Qualifications (Education and Training) Act 1999; 10

“An Foras” means An Foras Áiseanna Saothair;

“Appeals Panel” means the Appeals Panel established under *section 62*;

“Appeals Board” means an Appeals Board appointed under *section 63(3)*; 15

“Authority” has the meaning assigned to it by *section 8*;

“award” means an educational award which is made by an awarding body to a learner to record or certify that the learner has acquired a particular standard of knowledge, skill or competence and includes—

(a) a certificate, 20

(b) a diploma,

(c) a degree;

“awarding body” means a body which makes an award;

“chief executive” has the meaning assigned to it by *section 14* and includes a person designated under *section 15(5)* while he or she is performing the functions of the chief executive; 25

“code of practice” means a code of practice established and published by the Authority in accordance with *section 54*;

“company” means a company established under the Companies Acts; 30

“completion rate” for a programme of education and training means the ratio that the number of enrolled learners who complete the programme bears to the number of enrolled learners who commenced the programme;

“database” means the database established and maintained under *section 73*; 35

“designated awarding body” means a previously established university, an educational institution established as a university under section 9 of the Act of 1997, the Dublin Institute of Technology and the Royal College of Surgeons in Ireland; 40

“dissolved body” shall be construed in accordance with *section 65*;



- “enrolled learner” means a learner who has enrolled in a programme of education and training;
- “establishment day” shall be construed in accordance with *section 7*;
- “Framework” has the meaning assigned to it by *section 38*;
- 5 “Institute of Technology” means an institution referred to in section 3 (amended by section 4 of the Institutes of Technology Act 2006) of the Regional Technical Colleges Act 1992;
- “international education mark” means the international education mark specified under *section 55*;
- 10 “international learner” means a person who is not an Irish citizen but is lawfully in the State primarily to receive education and training;
- “linked provider” shall be construed in accordance with *subsection (3)*;
- “Minister” means the Minister for Education and Skills;
- 15 “National University of Ireland” means the university by that name in Dublin, constituted and founded by charter under the Act of 1908;
- “prescribed” means prescribed by regulations made by the Minister;
- “previously established university” means a university specified in paragraphs (a) to (d) of section 4(1) of the Act of 1997;
- 20 “professional recognition body” means a body (including a professional association, professional institute or any other professional organisation) required or authorised by or under a law of the State to supervise or regulate the conduct of persons engaged in a profession;
- 25 “programme of education and training” means a process by which a learner acquires knowledge, skill or competence and includes a course of study, a course of instruction and an apprenticeship;
- “provider” means a person who provides, organises or procures a programme of education and training;
- 30 “recognised college” means a recognised college within the meaning of section 2(4) of the Act of 1908, of the National University of Ireland;
- “recognised school” means a school that is recognised by the Minister under section 10 of the Education Act 1998;
- “record” includes—
- 35 (a) a record in writing,
- (b) a plan, chart, map, drawing, diagram, pictorial or graphic image,
- (c) a disc, tape, soundtrack, or other thing in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other thing) of  
40 being reproduced in legible or audible form, and

- (d) a film, tape or other thing in which visual images are embodied so as to be capable (with or without the aid of some other thing) of being reproduced in visual form;

“register” means the register of providers established and maintained under *section 72*; 5

“relevant designated awarding body”, in relation to a linked provider, means the designated awarding body who has entered into the arrangement referred to in *subsection (3)*, with the linked provider;

“relevant provider” means—

- (a) a previously established university, 10
- (b) an educational institution established as a university under section 9 of the Act of 1997,
- (c) a recognised college,
- (d) the Royal College of Surgeons in Ireland,
- (e) the Dublin Institute of Technology, 15
- (f) a provider whose programme of education and training is validated under *section 40*,
- (g) a provider who has entered into an arrangement with an awarding body under *section 43*, or
- (h) a provider to whom authority to make an award has been delegated under *section 47*; 20

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death;

“Teagasc” means Teagasc — The Agriculture and Food Development Authority; 25

“validation”, in relation to a programme of education and training, shall be construed in accordance with *subsection (2)*;

“vocational education committee” means a committee established under section 7 of the Vocational Education Act 1930.

(2) For the purposes of this Act, a programme of education and training is validated where the Authority confirms under *section 40* that the provider of the programme has satisfied the Authority that an enrolled learner of that provider who completes that programme will acquire, and where appropriate, be able to demonstrate, the necessary knowledge, skill or competence to justify an award of the Authority being offered in respect of that programme. 30 35

(3) Subject to *subsection (4)*, a linked provider is a provider that is not a designated awarding body but enters into an arrangement with a designated awarding body under which arrangement the provider provides a programme of education and training that satisfies all or part of the prerequisites for an award by the designated awarding body. 40

(4) A provider of a programme referred to in *subsection (3)* is not a linked provider if there is a joint awarding arrangement between the provider and the designated awarding body. 45

(5) A reference to access, transfer and progression, in relation to learners, is a reference to—

- 5 (a) access by learners to programmes of education and training, including recognition for knowledge, skill or competence previously acquired,
- (b) transfer of learners from one programme to another having received recognition for knowledge, skill or competence previously acquired, and
- 10 (c) progression of learners from a programme to another programme of a higher level.

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

15 (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.

20 (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

25 4.—The expenses incurred by the Minister in the administration Expenses.  
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.

30 5.—(1) A person who commits an offence under *section 77(6)* or *paragraph 13(2)* of *Schedule 1* shall be liable on summary conviction Offences.  
to a class A fine.

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under *section 77(6)* or *paragraph 13(2)* of *Schedule 1* may be instituted within 12 months from the date of the offence.

35 (3) A person who commits an offence under this Act, other than an offence referred to in *subsection (1)*, shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- 40 (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 5 years or both.

45 (4) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, commit an

offence and shall be liable to be proceeded against and punished as if he or she had committed the first-mentioned offence.

(5) Summary proceedings for an offence under this Act may be brought and prosecuted by the Authority.

Repeals and revocation.

6.—(1) The Acts specified in *column (1)* of *Part 1* of *Schedule 2* are repealed to the extent specified in *column (2)* of that Part. 5

(2) The statutory instrument specified in *Part 2* of *Schedule 2* is revoked.

## PART 2

### QUALIFICATIONS AND QUALITY ASSURANCE AUTHORITY OF IRELAND 10

Establishment day.

7.—The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Establishment of Qualifications and Quality Assurance Authority of Ireland.

8.—(1) There shall stand established on the establishment day a body which shall, subject to *subsection (2)*, be known in the Irish language as *Údarás na hÉireann um Cháilíochtaí agus Dearbhú Cáilíochta* or, in the English language, as the Qualifications and Quality Assurance Authority of Ireland (in this Act referred to as the “Authority”) to perform the functions conferred on it by this Act. 15

(2) The Minister may, following consultation with the Authority, by order specify a name, other than the Qualifications and Quality Assurance Authority of Ireland, by which the Authority may describe itself for operational purposes. 20

(3) *Schedule 1* applies to the Authority.

Functions of Authority.

9.—(1) The general functions of the Authority shall be to—

(a) promote, maintain, further develop and implement the Framework, 25

(b) formulate national policy on quality assurance and enhancement in education and training,

(c) review and monitor the effectiveness of providers’ quality assurance procedures, 30

(d) validate programmes of education and training, and review and monitor the validated programmes,

(e) establish the standards of knowledge, skill or competence to be acquired by learners before an award can be made by the Authority or by a provider to which authority to make an award has been delegated, 35

(f) make awards, delegate authority to make an award where it considers it appropriate and review and monitor the operation of the authority so delegated,

- (g) determine policies and criteria for access, transfer and progression in relation to learners, and monitor the implementation of procedures for access, transfer and progression in relation to learners by providers,
- 5 (h) establish a code of practice for the provision of programmes of education and training to international learners,
- (i) authorise the use of the international education mark by a provider that complies with the code of practice,
- 10 (j) establish, maintain and develop a database providing information on awards recognised within the Framework, programmes of education and training which lead to awards recognised within the Framework and any other programmes the Authority thinks appropriate,
- 15 (k) establish and maintain a register,
- (l) advise and consult with the Minister, or any other Minister, on any matter which relates to its functions, at that Minister's request,
- 20 (m) co-operate with international bodies on qualifications and quality assurance policies and their implementation and in particular to—
- (i) liaise with awarding bodies outside the State for the purposes of facilitating the recognition in the State of awards of those bodies, and
- 25 (ii) facilitate the recognition outside the State of awards made in the State,
- (n) promote the awards of the Authority,
- (o) ensure arrangements for the protection of learners are in place where learners have begun but not completed a programme of education and training where a provider ceases to provide the programme before completion,
- 30 (p) assist enrolled learners in finding alternative programmes of education and training where providers cease to provide a programme before completion, and
- 35 (q) collect any information relating to the performance of its functions it considers appropriate.
- (2) The Authority in the performance of its functions shall—
- (a) inform itself of the education, training, skills and qualifications requirements of industry, agriculture, business, 40 tourism, trade, the professions and the public service, including requirements as to the level of knowledge, skill or competence to be acquired by learners,
- (b) promote practices in education and training which meet the requirements referred to in *paragraph (a)*,
- 45 (c) inform itself of practices outside the State in respect of matters relevant to its functions,

(d) have regard to such policies of the Government relating to education and training as are notified in writing to the Authority, by the Minister, and

(e) consult, as it considers appropriate, with providers, professional recognition bodies, staff and learner representatives, An tÚdarás um Ard-Oideachas, the National Council for Curriculum and Assessment, the State Examinations Commission and any other persons or bodies the Authority considers appropriate. 5

(3) The Authority shall have all powers necessary or expedient for the performance of its functions. 10

(4) Subject to this Act, the Authority shall be independent in the performance of its functions.

(5) The Authority may perform any of its functions through or by any member of the staff of the Authority duly authorised in that behalf by the Authority. 15

(6) The Authority shall furnish the Minister with such information regarding the performance of its functions as the Minister may from time to time request.

Reviews by Authority.

**10.**—The Authority may, where it considers it appropriate, conduct one or more reviews under *section 33, 41, 48, 51 or 57* in relation to a provider at the same time. 20

Review of Authority by Minister.

**11.**—(1) The Minister may from time to time review the performance by the Authority of its functions.

(2) Following a review under *subsection (1)* the Minister may, after consultation with the Authority, make such recommendations to the Authority in respect of the performance by the Authority of its functions, as the Minister thinks fit. 25

(3) The Minister shall publish in the form and manner he or she thinks appropriate the results of a review under *subsection (1)* and any recommendations made under *subsection (2)*. 30

Co-operation with Authority.

**12.**—(1) Upon being requested to do so by the Authority, a relevant provider shall assist the Authority in the performance of the functions of the Authority in so far as those functions relate to the functions of the relevant provider. 35

(2) A professional recognition body shall, in so far as is practicable—

(a) co-operate with the Authority in the performance of the functions of the Authority in so far as those functions relate to the functions of the body, and 40

(b) consult with the Authority, as appropriate, in regard to the performance of the functions of the Authority in so far as those functions relate to the functions of the body.

(3) Upon being requested to do so by the Authority, a relevant provider and a professional recognition body shall provide any information the Authority requires for the performance of its functions 45

in so far as those functions relate to the functions of the provider or body concerned, including information in respect of completion rates, within the time specified in the request.

5 **13.—(1)** Where a relevant provider or a professional recognition body fails to provide information when requested to do so under *section 12(3)*, the Authority may by notice in writing direct the provider or body to provide that information. Directions of Authority as to provision of information.

10 (2) A relevant provider and a professional recognition body shall comply with a direction under *subsection (1)* within the time specified in the direction.

(3) The Authority may, by notice in writing, amend or revoke a direction under this section.

**14.—(1)** There shall be a chief executive officer of the Authority Chief executive.  
(in this Act referred to as the “chief executive”).

15 (2) Subject to *subsections (4) and (5)*, the chief executive shall be appointed by the Authority with the consent of the Minister.

(3) The chief executive may be removed from office by the Authority for stated reasons.

20 (4) The Minister may, before the establishment day, designate a person to be appointed the first chief executive of the Authority.

(5) If, immediately before the establishment day, a person stands designated by the Minister under *subsection (4)*, the Authority shall appoint that person to be the first chief executive.

25 (6) The chief executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Authority with the consent of the Minister and the Minister for Public Expenditure and Reform.

30 (7) The chief executive shall not hold any other office or employment or carry on any business without the consent of the Authority.

**15.—(1)** The chief executive shall carry on and manage, and control generally, the administration of the Authority and perform such other functions (if any) as the Authority may determine. Functions of chief executive.

35 (2) The chief executive shall perform his or her functions subject to such policies as may be determined from time to time by the Authority, and is accountable to the Authority for the efficient and effective management of the Authority and for the due performance of his or her functions.

40 (3) The chief executive may make proposals to the Authority on any matter relating to its functions.

(4) The chief executive shall provide the members of the Authority with any such information (including financial information) in relation to the performance of his or her functions as the members may request.

(5) The Authority may designate a member of the staff of the Authority to perform the functions of the chief executive in the absence of the chief executive or where the position of chief executive is vacant and the member so designated shall in such absence or upon such position being vacant perform those functions. 5

Delegation of functions of chief executive.

**16.—(1)** The chief executive may, with the consent of the Authority in writing, delegate any of his or her functions to a specified member of the staff of the Authority and that member of staff shall be accountable to the chief executive for the performance of the functions so delegated. 10

(2) The chief executive shall be accountable to the Authority for the performance of functions delegated by him or her in accordance with *subsection (1)*.

(3) The chief executive may, with the consent of the Authority in writing, revoke a delegation made in accordance with this section. 15

(4) In this section “functions” does not include a function to be performed by the chief executive on the determination of the Authority that is subject to a condition specified by the Authority that the function shall not be delegated by the chief executive to anyone else.

Accountability of chief executive to Public Accounts Committee.

**17.—(1)** In this section “Public Accounts Committee” means 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. 20

(2) The chief executive shall, whenever required in writing to do so by the Public Accounts Committee, give evidence to that Committee in relation to— 25

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account that the Authority is required by this Act to prepare (being a book or record of account that is subject to audit by the Comptroller and Auditor General), 30

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

(c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and 35

(d) any matter affecting the Authority 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. 40

(3) In giving evidence under this section, the chief executive shall not question or express an opinion on the merits of— 45



(a) any policy of the Government or a Minister of the Government, or

(b) the objectives of such a policy.

5 **18.—(1)** In this section “Committee” means 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 17* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee. Accountability of chief executive to other Oireachtas Committees.

10 (2) Subject to *subsection (3)*, the chief executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Authority.

15 (3) The chief executive shall not be required to give account before a Committee for any matter which is or has been or may be the subject of proceedings before a court or Tribunal in the State.

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

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

30 (a) the chief executive 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 *subsection (3)* applies, or

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

and the High Court shall determine the matter.

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

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

(8) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on—

45 (a) the merits of any policy of the Government or a Minister of the Government, or

(b) the merits of the objectives of such a policy.

Staff.

**19.—(1)** The Authority shall appoint, with the consent of the Minister and the Minister for Public Expenditure and Reform, such and so many persons to be members of the staff of the Authority as it from time to time determines.

(2) The terms and conditions of service of a member of the staff of the Authority shall be such as the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, from time to time determines. 5

(3) There shall be paid by the Authority to the members of its staff such remuneration, allowances and expenses as, from time to time, the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, determines. 10

Transfer of staff of dissolved body to Authority.

**20.—(1)** Every person who, immediately before the establishment day, was a member of the staff of a dissolved body shall, on the establishment day, become and be a member of the staff of the Authority on the establishment day. 15

(2) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, while in the service of the Authority, be subject to less beneficial conditions in relation to remuneration than the conditions in relation to remuneration to which he or she was subject immediately before the establishment day. 20

(3) In *subsection (2)*, a reference to conditions in relation to remuneration does not include conditions in relation to superannuation. 25

(4) In relation to a person who becomes a member of the staff of the Authority under this section, previous service with a dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967 to 2007, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007. 30

Superannuation.

**21.—(1)** As soon as may be after the establishment day, the Authority shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such of its staff (including the chief executive) as the Authority thinks appropriate. 35

(2) Every such 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 terms and conditions may be fixed by such schemes in respect of different classes of persons. 40

(3) The Authority may at any time prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this section. 45

(4) A scheme or amending scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the Authority in accordance with its terms. 50

(5) Every scheme made under this section shall make provision for appeals.

5 (6) No superannuation benefit shall be granted by the Authority to or in respect of any of its staff (including the chief executive) who is a member of a scheme under this section, nor shall any other arrangement be entered into for the provision of any superannuation benefit to such a person on his or her ceasing to hold office, other than in accordance with a scheme or schemes submitted and approved under this section or an arrangement approved by the  
10 Minister and the Minister for Public Expenditure and Reform.

15 (7) The Minister shall cause every scheme submitted and approved under this section to be laid before each House of the Oireachtas as soon as may be after it is approved, and if either such 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 under it.

20 (8) Where, in the period beginning on the establishment day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to, or in respect of, a person who was transferred to the staff of the Authority under *section 20*, the benefit shall be calculated by the Authority in accordance with such arrangement, approved by the Minister with the consent of the Minister for Public Expenditure and Reform, as  
25 applied to him or her immediately before the establishment day and, for that purpose, his or her pensionable service with the Authority shall be aggregated with his or her previous pensionable service with a dissolved body and the benefit so calculated shall be paid by the Authority.

30 (9) A scheme under *subsection (1)* shall, in respect of a person who becomes a member of the staff of the Authority under *section 20*, provide for the granting to or in respect of him or her of superannuation benefits upon and subject to such terms and conditions, approved by the Minister with the consent of the Minister for Public  
35 Expenditure and Reform, as applied to him or her immediately before the establishment day in relation to the grant of such benefits.

40 (10) Any period of service by a person as a member of the staff of a dissolved body that was a period of pensionable service for the purposes of a scheme for the granting of superannuation benefits to or in respect of members of the staff of the dissolved body shall, in respect of a person who becomes a member of the staff of the Authority under *section 20*, be regarded as a period of pensionable service for the purpose of any scheme under *subsection (1)*.

45 **22.—(1)** The Authority shall keep, in such form as the Minister Accounts. may approve, all proper and usual accounts and records of all moneys received or expended by it.

(2) The Authority shall each year submit accounts kept pursuant to *subsection (1)*, to the extent directed by the Comptroller and Auditor General, for audit to the Comptroller and Auditor General  
50 by such date as the Comptroller and Auditor General may from time to time direct.

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

(a) the accounts, and

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

(4) The Minister shall cause copies of the accounts provided under this section and copies of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas. 5

Strategy statement.

**23.**—(1) The Authority shall, as soon as practicable after the establishment day, and not earlier than 6 months before and not later than 3 months before each third anniversary of the establishment day, prepare and submit to the Minister a strategy statement for the following 3 year period. 10

(2) A strategy statement shall specify—

(a) the objectives of the Authority for the 3 year period concerned and the strategies for achieving those objectives, and 15

(b) the uses to which the Authority proposes to apply its resources.

(3) When preparing the strategy statement, the Authority may consult with any persons it considers appropriate. 20

(4) A strategy statement prepared by the Authority under *subsection (1)* shall be in such form as the Authority thinks appropriate.

(5) The Authority shall publish the strategy statement on the internet.

Annual Report.

**24.**—(1) The Authority shall, not later than 30 June in each year, prepare and submit to the Minister a report of its activities in the immediately preceding year, and the Minister shall, as soon as practicable after receiving the report, cause a copy of the report to be laid before each House of the Oireachtas. 25

(2) The Authority shall arrange for a report, laid before both Houses of the Oireachtas in accordance with *subsection (1)*, to be published on the internet as soon as practicable after copies of the report are so laid. 30

Gifts to Authority.

**25.**—(1) Subject to *subsections (2) and (3)*, the Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, accept gifts of money, land or other property. 35

(2) Where the donor of a gift specifies a trust or condition attaching to a gift, the Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, accept the gift subject to the trust or condition. 40

(3) The Authority shall not accept a gift if the trust or condition attached to it by the donor is, in the opinion of the Authority, inconsistent with or likely to prejudice the Authority's operational independence or the effective performance of its functions.

(4) The Authority shall include details of any gift that exceeds an amount, specified by the Minister with the consent of the Minister for Public Expenditure and Reform, in the next report prepared under *section 24* after the gift is accepted.

5 (5) In *subsection (4)* “details” means—

- (a) the name and address of the donor of the gift,
- (b) a description of the gift, and
- (c) particulars of any trust or condition attached to the gift.

### PART 3

#### 10 QUALITY ASSURANCE

**26.—(1)** The Authority shall, as soon as practicable after the establishment day— Quality assurance.

15 (a) issue guidelines (in this section referred to as “quality assurance guidelines”) for the establishment of procedures for quality assurance under *section 27*, and

(b) establish procedures (in this section referred to as “effectiveness review procedures”) for review by the Authority of the effectiveness of—

20 (i) the procedures for quality assurance established by relevant providers, and

(ii) the implementation of those procedures by relevant providers.

(2) The Authority shall consult with relevant providers and linked providers before issuing quality assurance guidelines.

25 (3) The Authority shall consult with relevant providers before establishing effectiveness review procedures.

30 (4) Before issuing quality assurance guidelines and establishing effectiveness review procedures, the Authority shall consult with An tÚdarás um Ard-Oideachas if those guidelines and review procedures apply to providers funded by An tÚdarás um Ard-Oideachas.

(5) The Authority may—

35 (a) issue different quality assurance guidelines for different relevant or linked providers or groups of relevant or linked providers, and

(b) establish different effectiveness review procedures for different relevant providers or groups of relevant providers.

40 (6) The Authority shall publish the quality assurance guidelines and effectiveness review procedures in such form and manner as it thinks appropriate (including on the internet).

**27.**—(1) Subject to *sections 28, 29, 31 and 32*, each relevant provider and linked provider shall establish procedures in writing for quality assurance for the purposes of establishing, ascertaining, maintaining and improving the quality of education, training, research and related services the provider provides. 5

(2) Each relevant provider and linked provider shall have regard to the guidelines issued by the Authority under *section 26(1)(a)* in establishing procedures under *subsection (1)*.

(3) Procedures under *subsection (1)* shall be established as soon as practicable after the issue of guidelines by the Authority under *section 26(1)(a)* and at such other time or times— 10

(a) as a relevant provider or linked provider thinks appropriate,

(b) in the case of a relevant provider, as the Authority directs, or 15

(c) in the case of a linked provider, as the relevant designated awarding body directs.

(4) Procedures under *subsection (1)* shall include procedures for—

(a) evaluation, subject to *subsection (5)*, from time to time as the provider thinks appropriate, by the provider and by enrolled or formerly enrolled learners of the education, training, research and related services provided by that provider, 20

(b) review by the provider of the application of the quality assurance procedures, 25

(c) preparation of a report by the provider setting out—

(i) the results of a review carried out under *paragraph (b)*,

(ii) what measures (if any) the provider considers necessary arising out of that review to establish, ascertain, maintain and improve the quality of education, training, research and related services provided by the provider, 30

(d) furnishing the report to the Authority, and, in the case of a linked provider, also to the relevant designated awarding body concerned, 35

(e) publication of the report, and

(f) implementation of the measures (if any) referred to in *paragraph (c)(ii)*. 40

(5) Procedures for an evaluation by a provider under *subsection (4)(a)* shall provide for an evaluation to be completed at least once every 7 years after the issue of guidelines under *section 26(1)(a)* and—

(a) in the case of a relevant provider, whenever the Authority so directs, or 45

(b) in the case of a linked provider, whenever the relevant designated awarding body so directs.

5 (6) A relevant provider or linked provider who organises or procures a programme of education and training which is provided, wholly or partly, by another person shall, in so far as the procedures to be established by the relevant provider or linked provider under *subsection (1)* relate to that part of the programme provided by that person, agree those procedures with that person.

10 (7) *Subsection (1)* shall not apply to a person referred to in *subsection (6)* where the person is a relevant provider or a linked provider in so far as—

15 (a) procedures have been agreed under *subsection (6)* between the person and the relevant provider or the linked provider who organises or procures the programme, and

(b) those procedures relate to that part of the programme provided by that person.

20 **28.**—A previously established university shall—

Quality assurance procedures and previously established universities.

(a) consult with the Authority before establishing procedures under *section 27*,

(b) provide a copy of the procedures established by it under *section 27* to the Authority and publish those procedures on the internet as soon as practicable thereafter, and

(c) implement procedures published by it under this section.

25 **29.**—(1) Before establishing procedures under *section 27*, a relevant provider, other than a previously established university, shall submit a draft of the proposed procedures to the Authority for approval, accompanied by such fee (if any) as may be determined by the Authority under *section 74*.

Quality assurance procedures and relevant providers, other than previously established universities.

30 (2) Upon consideration of the proposed procedures submitted to it under *subsection (1)*, and having consulted with the National University of Ireland where the proposed procedures are submitted by a recognised college, the Authority may—

(a) approve the proposed procedures,

35 (b) refuse to approve the proposed procedures but make such recommendations to the provider as it thinks appropriate, or

(c) in accordance with *section 30*, refuse to approve the proposed procedures.

40 (3) Where the Authority approves procedures under *subsection (2)(a)*, the provider shall publish those procedures in such form and manner (including on the internet) as the Authority directs and shall provide a copy of the procedures as published to the Authority.

45 (4) The Authority may, as it thinks appropriate, determine the form and manner of the publication of procedures under *subsection (3)*.

(5) Where the Authority makes recommendations under *subsection (2)(b)* the provider concerned shall take account of those recommendations before resubmitting the proposed procedures for approval under *subsection (1)*.

(6) No further fee is payable where a provider resubmits proposed procedures in accordance with *subsection (5)*. 5

(7) A provider shall implement procedures approved under this section.

(8) A provider who falsely claims or represents that its procedures for quality assurance have been approved by the Authority under this section commits an offence. 10

Refusal by Authority to approve proposed quality assurance procedures.

**30.**—(1) Where upon consideration by the Authority of a draft of any proposed procedures submitted to it under *section 29* for approval the Authority considers that it should refuse to approve the proposed procedures the Authority shall, by notice in writing, inform the provider concerned that it proposes to refuse to give its approval and state the reasons for the proposed refusal. 15

(2) The notice under *subsection (1)* shall state that the provider may make representations to the Authority in relation to the proposed refusal set out in the notice not later than one month after the service of the notice on the provider. 20

(3) Where, after consideration of any representations made to the Authority under *subsection (2)*, the Authority considers that it should refuse to approve the proposed procedures, it may do so by notice in writing addressed to the provider. 25

(4) A notice under *subsection (3)* shall state the reasons for the refusal referred to in that subsection.

(5) Where the Authority refuses to approve the proposed procedures of a provider, the provider concerned may appeal against that refusal to the Appeals Panel. 30

Quality assurance procedures and designated awarding bodies.

**31.**—(1) Where a designated awarding body proposes to make an award in respect of a programme of education and training of a linked provider, the designated awarding body shall, in establishing procedures under *section 27*, include procedures for review by the designated awarding body of the effectiveness of the procedures established by the linked provider under that section and the implementation by the linked provider of those procedures. 35

(2) Procedures for review by a designated awarding body under *subsection (1)* shall include procedures for—

(a) consultation with the linked provider concerned, 40

(b) the making of any recommendations that the designated awarding body thinks appropriate,

(c) the circumstances in which the designated awarding body may withdraw approval given under *section 32* of the procedures of the linked provider, and 45

(d) the publication of the results of the review, in such form and manner (including on the internet) as the designated



awarding body thinks appropriate, and including the views, if any, of the linked provider concerned.

5 **32.—(1)** Before establishing procedures under *section 27*, a linked provider shall submit a draft of the proposed procedures to the relevant designated awarding body for approval. Quality assurance procedures and linked providers.

(2) Upon consideration of the proposed procedures submitted under *subsection (1)*, the relevant designated awarding body may—

(a) approve the proposed procedures,

10 (b) refuse to approve the proposed procedures but make such recommendations to the provider as it thinks appropriate, or

(c) refuse to approve the proposed procedures.

15 (3) Where the relevant designated awarding body approves the proposed procedures under *subsection (2)(a)*, the linked provider shall publish those procedures in such form and manner as the designated awarding body directs and shall provide a copy of the procedures as published to that designated awarding body and the Authority.

20 (4) Where the relevant designated awarding body makes recommendations under *subsection (2)(b)* the linked provider shall take account of those recommendations before resubmitting those draft procedures for approval under *subsection (1)*.

(5) A linked provider shall implement procedures approved under this section.

25 **33.—(1)** The Authority shall review the effectiveness of the procedures established by a relevant provider under *section 27*, and the implementation by the relevant provider of those procedures— Review by Authority of quality assurance procedures of relevant providers.

(a) at least once every 7 years from the issue of guidelines under *section 26(1)(a)*, and

30 (b) from time to time as the Authority thinks appropriate.

(2) A relevant provider subject to review under *subsection (1)* shall pay to the Authority within one month of the completion of the review such fee (if any) as may be determined by the Authority under *section 74*.

35 (3) The Authority shall carry out a review under *subsection (1)* in accordance with the procedures for review established by it under *section 26(1)(b)*.

40 (4) In carrying out a review under *subsection (1)* of a relevant provider that is funded by An tÚdarás um Ard-Oideachas the Authority shall consult with An tÚdarás um Ard-Oideachas.

(5) In carrying out a review under *subsection (1)* of a recognised college the Authority shall consult with the National University of Ireland.

45 (6) The Authority shall prepare a report setting out the results of a review under *subsection (1)*.

(7) The Authority shall provide a copy of the report prepared under *subsection (6)* to the relevant provider concerned and the relevant provider may, within one month from the provision of the report to it, submit in writing any observations it has on the report to the Authority.

5

(8) After consideration of any observations submitted to the Authority under *subsection (7)*, the Authority may make any amendments to the report that the Authority considers appropriate.

(9) The Authority shall provide a copy of the final report to the relevant provider and shall publish the report (including the observations of the provider concerned) in such form and manner as it thinks appropriate (including on the internet).

Directions of Authority following review of quality assurance procedures.

**34.—**(1) Where the Authority has carried out a review under *section 33*, the Authority may, following consultation with the relevant provider, issue such directions in writing to the relevant provider as the Authority thinks appropriate.

(2) A relevant provider shall comply with a direction issued under *subsection (1)*.

(3) A relevant provider shall provide the Authority with information from time to time and when requested to do so by the Authority regarding the compliance by the relevant provider with a direction issued to the provider under *subsection (1)*.

Withdrawal by Authority of approval of quality assurance procedures.

**35.—**(1) Where, in relation to a relevant provider other than a previously established university, the Authority considers that—

- (a) directions issued by the Authority to the relevant provider under *section 34(1)* have not been complied with, or
- (b) there are serious deficiencies in the implementation of quality assurance procedures by the relevant provider,

the Authority shall, by notice in writing, inform the relevant provider that it proposes to withdraw its approval of the procedures established under *section 27* and state the reasons for the proposed withdrawal.

(2) A notice under *subsection (1)* shall state that the relevant provider may make representations to the Authority in writing in relation to the proposed withdrawal set out in the notice not later than one month after the service of the notice on the provider.

(3) Where, after consideration of any representations made to the Authority under *subsection (2)*, the Authority continues to consider that *paragraph (a)* or *(b)* of *subsection (1)* applies, it may withdraw its approval of the procedures established under *section 27*, by notice in writing addressed to the relevant provider, from such date (not earlier than the date of service on the relevant provider of the notice of withdrawal) as it considers appropriate and as is specified in the notice.

(4) A notice under *subsection (3)* shall state the reasons for the withdrawal referred to in that subsection.

(5) Where the Authority withdraws approval under *subsection (3)*, the relevant provider concerned may appeal against that withdrawal to the Appeals Panel.

5 (6) Where the Authority withdraws approval under *subsection (3)*, the Authority shall also by notice in writing addressed to that relevant provider, from such date (not earlier than the date of service on the relevant provider of the notice of withdrawal) as it considers appropriate and as is specified in the notice having regard to the interests of enrolled learners concerned, withdraw—

10 (a) validation of any programmes of education and training of the relevant provider concerned which the Authority has validated under *section 40*,

(b) any authority to make awards delegated to the relevant provider concerned under *section 47*, and

15 (c) approval of procedures for access, transfer and progression given under *section 50*.

20 **36.—(1)** A relevant designated awarding body shall review the effectiveness of the procedures established by a linked provider under *section 27* and the implementation by the linked provider of those procedures—

Review by designated awarding bodies of quality assurance procedures of linked providers.

(a) at least once every 7 years from the issue of guidelines under *section 26(1)(a)*, and

(b) from time to time as the designated awarding body thinks appropriate.

25 (2) A designated awarding body shall carry out a review under *subsection (1)* in accordance with procedures for review established by it under *section 27*.

(3) A designated awarding body may request the Authority to assist the body in carrying out a review under *subsection (1)*.

30 (4) A designated awarding body shall prepare a report setting out the results of a review under *subsection (1)*.

(5) A designated awarding body shall provide a copy of the report prepared under *subsection (4)* to the linked provider concerned.

35 (6) A linked provider may, within one month from the provision of the report to it under *subsection (5)*, submit in writing any observations it has on the report to the designated awarding body.

40 (7) After consideration of any observations submitted to the designated awarding body under *subsection (6)*, the designated awarding body may make any amendments to the report that the designated awarding body considers appropriate.

45 (8) The designated awarding body shall provide a copy of the report to the linked provider concerned and shall publish the final report (including the observations of the linked provider concerned) in such form and manner as it thinks appropriate (including on the internet).

**37.**—(1) The Authority may, from time to time, conduct such reviews as it considers appropriate of the quality of education, training, research and related services provided by relevant providers and linked providers or any class of relevant providers and linked providers.

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(2) In carrying out a review under *subsection (1)* the Authority shall consult with An tÚdarás um Ard-Oideachas where the review concerns one or more providers funded by An tÚdarás um Ard-Oideachas.

(3) The Authority shall publish, in such form and manner as it thinks appropriate (including on the internet), the findings of a review under *subsection (1)*.

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## PART 4

### STANDARDS AND AWARDS

**38.**—(1) The framework established and maintained by the National Qualifications Authority of Ireland under section 7(a) of the Act of 1999 shall, notwithstanding the repeal of that section by *section 6(1)*, continue in being under this Act and shall—

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(a) be known as the National Framework of Qualifications (in this Act referred to as the “Framework”), and

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(b) be kept and maintained by the Authority in accordance with this section.

(2) The Authority shall—

(a) review the policies and criteria on which the Framework is based,

25

(b) promote, maintain, further develop and implement the Framework as a system—

(i) for the development, recognition and award of qualifications in the State, and

(ii) of levels of awards based on standards of knowledge, skill or competence to be acquired by a learner to entitle the learner to an award at a particular level within the Framework,

30

(c) review the operation of the Framework,

(d) promote and facilitate the use by providers and awarding bodies of statements of what an enrolled learner is expected to know, understand, and where appropriate, demonstrate, on completion of a programme of education and training, and

35

(e) amend the Framework from time to time as it considers necessary taking into account *paragraphs (a) to (d)*.

40

(3) Each body authorised by law to make awards in the State shall ensure, in so far as is reasonably practicable, that each award that it makes is recognised within the Framework.

5 (4) Each awarding body in the State shall, in respect of each award the body makes that is recognised within the Framework, ensure that a learner acquires the standard of knowledge, skill or competence associated with the level of that award within the Framework before an award is made.

10 (5) Each provider of a programme of education and training leading to an award that is recognised within the Framework shall, in respect of each such programme, ensure that an enrolled learner acquires the standard of knowledge, skill or competence associated with the level of that award within the Framework before an award is made.

15 **39.—**(1) The Authority shall, as soon as practicable after the establishment day, establish policies and criteria for the validation of programmes of education and training and shall publish the policies and criteria in such form and manner as it thinks appropriate (including on the internet). Application for validation of programme of education and training.

(2) The Authority shall, within 5 years after the establishment of policies and criteria under *subsection (1)*, and at least once in every period of 5 years thereafter, review those policies and criteria.

20 (3) Subject to *subsections (5), (7), (8) and (9)*, a provider of a programme of education and training may apply to the Authority for validation of the programme.

25 (4) An application made under *subsection (3)* shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*.

(5) A provider shall not make an application under *subsection (3)* unless—

(a) the provider has established procedures for quality assurance under *section 27*,

30 (b) the provider has established procedures for access, transfer and progression under *section 50*,

(c) the provider has complied with *section 59* in respect of arrangements for the protection of enrolled learners, if applicable, and

35 (d) if *subsection (9)* applies to the provider, the provider has consulted with the person referred to in that subsection.

40 (6) A provider, other than a relevant provider, who makes an application for validation of a programme of education and training under *subsection (3)* shall be taken to be a relevant provider for the purposes of *sections 27 and 50* and shall continue to be a relevant provider for those purposes only if the programme is validated and for so long as the programme remains validated.

(7) An application under *subsection (3)* shall be made by the following providers—

45 (a) each Institute of Technology,

(b) An Foras,

(c) the National Tourism Development Authority,

- (d) Teagasc,
- (e) An Bord Iascaigh Mhara,
- (f) an educational or training institution established and maintained by a vocational education committee,
- (g) a recognised school in so far as the school provides adult, continuing or vocational education or training which leads to an award,

in respect of each programme of that provider.

(8) A provider referred to in *subsection (7)* shall not make an application under *subsection (3)*— 10

- (a) in respect of a programme of education and training—
  - (i) that relates to a leisure or recreational activity not intended to lead to an award,
  - (ii) that is part of primary or post-primary education provided by a recognised school, or 15
  - (iii) where the provider has authority, delegated to it under *section 47*, to make an award in respect of that programme,
- (b) where the provider has entered into an arrangement under *section 43* with an awarding body other than the Authority to the extent that a programme of education and training of the provider is the subject of the arrangement. 20

(9) A provider who organises or procures a programme of education and training which is provided, wholly or partly, by another person shall consult with that person before making an application under *subsection (3)*. 25

(10) Where the person referred to in *subsection (9)* is a provider who, but for this subsection, would be a provider to whom *subsection (7)* applies, then *subsection (7)* shall not apply to that person in relation to that programme. 30

Determination of application for validation of programme of education and training.

**40.**—(1) Upon receipt of an application under *section 39(3)*, the Authority may—

- (a) subject to *subsection (2)*, validate the relevant programme of education and training where the programme satisfies the criteria established by the Authority under *section 39(1)*, or 35
- (b) refuse to validate the programme and give reasons for the refusal.

(2) The validation of a programme by the Authority is subject to— 40

- (a) the conditions specified in *subsection (3)*, and
- (b) any other conditions that the Authority thinks it appropriate to impose in relation to the programme.

- (3) The provider of the programme concerned shall—
- (a) co-operate with and assist the Authority in the performance of the Authority’s functions in so far as those functions relate to the functions of the provider,
  - 5 (b) establish procedures which are fair and consistent for the assessment of enrolled learners to ensure the standards of knowledge, skill or competence determined by the Authority under *section 44(1)* are acquired, and where appropriate, demonstrated, by enrolled learners,
  - 10 (c) implement procedures for access, transfer and progression in relation to learners as approved by the Authority under *section 50*,
  - (d) continue to comply with *section 59* in respect of arrangements for the protection of enrolled learners, if applicable, and
  - 15 (e) provide to the Authority such information as the Authority may from time to time require for the purposes of the performance of its functions, including information in respect of completion rates.
- 20 (4) Where the Authority refuses under *subsection (1)(b)* to validate a programme of education and training, the provider of the programme may appeal against the refusal to the Appeals Panel.
- (5) A provider who falsely claims or represents that the Authority has validated a programme of education and training of the provider
- 25 commits an offence.

**41.—(1)** The Authority may, at any time, review a programme of education and training which it has validated. Review of programme validation.

(2) The provider of a programme of education and training which is subject to review under *subsection (1)* shall pay to the Authority

30 within one month of the completion of the review such fee (if any) as may be determined by the Authority under *section 74*.

**42.—(1)** Upon a review of a programme under *section 41*, where the Authority considers that— Withdrawal of programme validation.

- 35 (a) the programme no longer meets the criteria established by the Authority under *section 39(1)*,
- (b) a condition referred to in *section 40(2)* is not being complied with, or
- (c) there are other reasonable grounds for withdrawing the validation of the programme,

40 the Authority shall, by notice in writing, inform the provider of the programme that it proposes to withdraw validation of the programme and state the reasons for the proposed withdrawal.

(2) A notice under *subsection (1)* shall state that the provider may make representations to the Authority in relation to the proposed

45 withdrawal as set out in the notice not later than one month after the service of the notice on the provider.

(3) Where, after consideration of any representations made to the Authority under *subsection (2)*, the Authority continues to consider that *paragraph (a), (b) or (c) of subsection (1)* applies, it may withdraw its validation of the programme concerned, by notice in writing addressed to the provider, from such date (not earlier than the date of service on the provider of the notice of withdrawal) as it considers appropriate and as is specified in the notice having regard to the interests of the enrolled learners concerned. 5

(4) A notice under *subsection (3)* shall state the reasons for the withdrawal referred to in that subsection. 10

(5) Where the Authority, withdraws its validation of a programme of education and training under *subsection (3)*, the provider concerned may appeal against that withdrawal to the Appeals Panel.

Arrangement between providers and awarding bodies other than the Authority.

**43.—(1)** A provider referred to in *section 39(7)* may enter into an arrangement with an awarding body other than the Authority to provide, organise or procure a programme of education and training where— 15

(a) completion of the programme by an enrolled learner and the attainment by the learner of a specified standard of knowledge, skill or competence upon such completion entitles the learner to an award of the body, and 20

(b) the award of the body is recognised within the Framework.

(2) A provider shall notify the Authority of an arrangement referred to in *subsection (1)* prior to entering into the arrangement.

Authority to determine standards of knowledge, skill or competence for awards.

**44.—(1)** The Authority shall determine the standards of knowledge, skill or competence to be acquired, and where appropriate, demonstrated, by a learner before an award may be made by the Authority or by a provider to which, under *section 47*, authority to make an award has been delegated. 25

(2) The Authority shall have regard to the Framework in determining the standards referred to in *subsection (1)*. 30

(3) The Authority shall publish, in such form and manner as it thinks appropriate (including on the internet), the standards determined under *subsection (1)*.

(4) The Authority may, at any time, amend the standards determined under *subsection (1)*. 35

Making of an award.

**45.—(1)** The Authority shall, as soon as practicable after the establishment day, establish and publish, in such form and manner as it thinks appropriate (including on the internet), policies and criteria for the making of an award by— 40

(a) the Authority, and

(b) a provider to which, under *section 47*, authority to make an award has been delegated.

(2) The Authority shall, within 5 years after the establishment of policies and criteria under *subsection (1)*, and at least once in every period of 5 years thereafter, review those policies and criteria. 45



5 (3) The Authority shall, on the application of a learner and in accordance with the policies and criteria established under *subsection (1)*, make an award to the learner where the learner has, in the opinion of the Authority, acquired, and where appropriate, demonstrated, the appropriate standard of knowledge, skill or competence as determined by the Authority under *section 44(1)*.

10 (4) Subject to *subsection (5)*, the Authority shall, on the application of a provider in respect of an enrolled learner of that provider, and in accordance with the policies and criteria established under *subsection (1)*, make an award to the enrolled learner where the Authority, having consulted with that provider, is satisfied that the learner has acquired, and where appropriate demonstrated, the appropriate standard of knowledge, skill or competence as determined by the Authority under *section 44(1)*.

15 (5) An application by a provider under *subsection (4)* may be made only in respect of a programme of education and training of the provider which has been validated by the Authority under *section 40*.

20 (6) An application under *subsection (3)* and *subsection (4)* shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*.

25 (7) The Authority may request a relevant provider to assist the Authority in forming an opinion for the purposes of *subsection (3)* as to whether a learner has acquired, and where appropriate, demonstrated, the appropriate standard of knowledge, skill or competence.

(8) A provider commits an offence if, in relation to a programme of education and training of the provider, the provider falsely claims or represents that upon—

(a) completion by a learner of that programme, or

30 (b) the attainment by a learner of a specified standard of knowledge, skill or competence upon completion by the learner of that programme,

the learner is entitled to an award of the Authority.

35 **46.—(1)** The Authority shall, as soon as practicable after the establishment day, establish and publish, in such form and manner as it thinks appropriate (including on the internet), procedures and criteria for the determination of a request under *subsection (2)*, which criteria shall include criteria relating to the overall operation and management of the provider making the request.

Request by provider for delegation of authority to make award.

40 (2) Subject to *subsection (3)*, any of the following may request the Authority to delegate to it the authority to make an award:

(a) an Institute of Technology;

(b) An Foras;

(c) the National Tourism Development Authority;

45 (d) Teagasc;

- (e) a provider of a programme of education and training fulfilling the conditions set out in regulations made under *subsection (7)*.
- (3) A provider may not make a request under *subsection (2)* unless— 5
- (a) the provider has established procedures for quality assurance under *section 27*,
  - (b) the provider has established procedures for access, transfer and progression under *section 50*,
  - (c) the provider has complied with *section 59* in respect of 10 arrangements for the protection of enrolled learners, if applicable, and
  - (d) if *subsection (9)* applies to the provider, the provider has consulted with the other person referred to in that subsection. 15
- (4) A request by a provider under *subsection (2)* for delegated authority to make an award may be made in respect of a programme or a class of programme of education and training of the provider.
- (5) Where a provider makes a request under *subsection (2)* in respect of a class of programme of education and training of the provider, that provider shall specify in the request all of its programmes of education and training within that class. 20
- (6) A request by a provider under *subsection (2)* shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*. 25
- (7) The Minister shall make regulations as soon as practicable after the establishment day specifying the conditions that shall be fulfilled by a provider of a programme of education and training for the purposes of *subsection (2)(e)*.
- (8) Without prejudice to the generality of *subsection (7)*, conditions specified in regulations made under that subsection shall require that a provider has a minimum number (not less than one) of its programmes validated by the Authority and may require that— 30
- (a) a provider’s programmes of education and training have not fewer than the number of enrolled learners specified 35 in the regulations, or
  - (b) a provider’s programmes have been validated by the Authority for a minimum period.
- (9) Where a provider who organises or procures a programme of education and training makes a request under *subsection (2)* in respect of an award made on completion of the programme but that programme is, wholly or partly, provided by another person, the provider making the request shall consult with that other person before making the request. 40
- (10) For the purposes of this section, and *sections 47, 48 and 49*, 45 a class of programme of education and training may comprise either or both—

(a) programmes which lead to awards recognised at, or up to, a particular level within the Framework,

(b) programmes in a particular subject area.

5 **47.—(1)** The Authority shall evaluate a request made under *section 46(2)* and shall prepare a report on its evaluation.

Determination of request for delegation of authority to make award.

10 (2) The Authority shall furnish a copy of the report prepared under *subsection (1)* to the provider concerned and shall inform the provider that the provider may make representations to the Authority in relation to that report not later than one month after the furnishing of the report to the provider.

15 (3) After consideration of any representations made to the Authority under *subsection (2)*, the Authority shall, within 6 months of receipt of the representations or within 6 months of the expiration of the one month period referred to in *subsection (2)*, whichever is the earlier—

(a) where it is satisfied that—

(i) a programme or a class of programme of education and training of the provider for which delegated authority to make an award is sought, and

20 (ii) the overall operation and management of the provider,

25 meet the criteria established under *section 46(1)*, delegate, subject to the conditions in *subsection (4)*, to that provider the authority to make an award in respect of that programme or that class of programme, or

(b) refuse to delegate to that provider that authority and give reasons for the refusal.

(4) The provider concerned shall—

30 (a) (i) co-operate with and assist the Authority in the performance of the Authority's functions in so far as those functions relate to the functions of the provider,

35 (ii) establish procedures which are fair and consistent for the assessment of enrolled learners to ensure the standards of knowledge, skill or competence determined by the Authority under *section 44(1)* are acquired, and where appropriate, demonstrated, by enrolled learners,

40 (iii) implement procedures for access, transfer and progression in relation to learners as approved by the Authority under *section 50*,

(iv) continue to comply with *section 59* in respect of arrangements for the protection of enrolled learners, if applicable,

(v) provide such information as the Authority may from time to time require for the purposes of the performance of its functions, including information in respect of completion rates,

and

5

(b) comply with any other condition that the Authority specifies by notice in writing to the provider concerned.

(5) The Authority shall, for the purpose of determining any other conditions under *subsection (4)(b)*, have regard in particular to any programmes of the provider of the kind referred to in *section 46(9)*. 10

(6) Where the Authority delegates authority to a provider to make an award, and the authority has not been withdrawn under *section 49*, any award made by the provider pursuant to that authority shall be an award of that provider.

(7) Where, at any time after the Authority delegates authority to a provider to make an award in respect of a class of programme, the provider proposes to make an award in respect of a programme which it considers comes within the class but the programme was not specified under *section 46(5)*, the provider shall notify the Authority in writing of its proposal. 15  
20

(8) The Authority may, within one month of receipt of a proposal under *subsection (7)*, notify the provider in writing that it does not consider the programme comes within a class of programme in respect of which the provider has delegated authority to make an award. 25

(9) Where a provider is notified by the Authority under *subsection (8)*, the provider shall not make an award in respect of the programme concerned.

(10) Where a provider does not receive a notification from the Authority under *subsection (8)*, the provider may, after the expiration of one month referred to in that subsection, make an award in respect of the programme concerned. 30

(11) Where the Authority refuses under *subsection (3)(b)* to delegate to a provider the authority to make an award in respect of a programme or a class of programme of education and training, the provider may appeal against that refusal to the Appeals Panel. 35

(12) Where the Authority delegates to the provider authority to make an award but specifies a condition in writing under *subsection (4)(b)*, the provider may appeal against the condition to the Appeals Panel. 40

(13) A provider who falsely claims or represents that the Authority has delegated to the provider authority to make an award in respect of a programme or a class of programme of education and training commits an offence.

Review by  
Authority of  
delegated authority  
to make award.

**48.—**(1) The Authority shall review each programme or class of programme of education and training of a provider to which authority to make an award has been delegated under *section 47* and the overall operation and management of that provider— 45

(a) at least once every 7 years after the authority is delegated, and

(b) from time to time as the Authority thinks appropriate.

5 (2) The Authority shall, as soon as practicable after the establishment day, establish and publish, in such form and manner as it thinks appropriate (including on the internet), procedures for conducting reviews under *subsection (1)*.

10 (3) A provider subject to review under *subsection (1)* shall pay to the Authority within one month of the completion of the review such fee (if any) as may be determined by the Authority under *section 74*.

49.—(1) Upon a review under *section 48*, where the Authority considers that—

Withdrawal or variation by Authority of delegated authority to make award.

15 (a) a programme or class of programme of education and training of a provider for which authority to make an award has been delegated, or the overall operation and management of the provider of the programme, no longer meets the criteria determined by the Authority under *section 46(1)*,

20 (b) a condition referred to in *section 47(4)* is not being complied with, or

(c) there are other reasonable grounds for withdrawing or varying the authority to make an award,

25 the Authority shall, by notice in writing, inform the provider concerned that it proposes to withdraw or vary the authority to make an award in relation to a programme or programmes of a class specified in the notice and state the reasons for the proposed withdrawal or variation.

30 (2) The notice under *subsection (1)* shall state that the provider may make representations to the Authority in relation to the proposed withdrawal or variation set out in the notice not later than 3 months after the service of that notice on that provider.

35 (3) Where, after consideration of any representations made to the Authority under *subsection (2)*, the Authority continues to consider that *paragraph (a), (b) or (c) of subsection (1)* applies, it may withdraw or vary the authority in relation to the programme or programmes specified in the notice under *subsection (1)*, by notice in writing addressed to that provider, from such date (not earlier than the date of service on the provider of the notice of withdrawal or variation) as it considers appropriate and as is specified in the notice.

40 (4) A notice under *subsection (3)* shall state the reasons for the withdrawal or variation referred to in that subsection.

(5) Where the Authority withdraws or varies the authority of a provider to make an award under this section the provider may appeal against the withdrawal or variation to the Appeals Panel.

45 (6) In this section, reference to varying the authority to make an award means varying the conditions imposed under *section 47(4)(b)*.

50.—(1) The Authority shall, as soon as practicable after the establishment day, establish and publish, in such form and manner as it thinks appropriate (including on the internet), policies and criteria for access, transfer and progression in relation to learners.

(2) Each relevant provider and linked provider shall, as soon as practicable after policies and criteria are established under *subsection (1)*, in accordance with those policies and criteria, establish procedures for access, transfer and progression in relation to learners to be implemented by the provider concerned. 5

(3) The procedures referred to in *subsection (2)* shall include procedures for credit accumulation, credit transfer and identification and formal assessment of the knowledge, skills or competence previously acquired by learners. 10

(4) Before establishing procedures under *subsection (2)*, each relevant provider, other than a previously established university, and each linked provider, shall submit a draft of the proposed procedures to the Authority for approval, accompanied by such fee (if any) as may be determined by the Authority under *section 74*. 15

(5) Upon consideration of the proposed procedures submitted to it under *subsection (4)*, the Authority shall— 20

- (a) approve the proposed procedures, or
- (b) refuse to approve the proposed procedures but make such recommendations to the provider as it thinks appropriate.

(6) Where the Authority approves procedures under *subsection (5)(a)*, the provider concerned shall publish those procedures in such form and manner (including on the internet) as the Authority directs and shall furnish a copy of the procedures as published to the Authority, and a linked provider shall also furnish a copy to the relevant designated awarding body. 25

(7) Where the Authority makes recommendations under *subsection (5)(b)* the provider concerned shall take account of those recommendations before resubmitting the proposed procedures for approval under *subsection (4)*. 30

(8) No further fee shall be payable where a provider resubmits proposed procedures in accordance with *subsection (7)*. 35

(9) A provider shall implement procedures approved by the Authority under *subsection (5)(a)*.

(10) A previously established university shall consult with the Authority before establishing procedures under *subsection (2)*.

(11) A previously established university shall provide a copy of the procedures established by it under *subsection (2)* to the Authority and shall publish those procedures as soon as practicable thereafter. 40

(12) The Authority shall facilitate and advise previously established universities in implementing the procedures established under *subsection (2)*. 45

(13) In this section—

“credit” means an acknowledgement of an enrolled learner’s completion of a programme or part of a programme of education and training to a particular standard;

5 “credit transfer” means transferring credits awarded for studies undertaken as part of one programme of education and training to another programme.

**51.—(1)** The Authority shall review the implementation by each relevant provider and each linked provider of the procedures established by the provider under *section 50(2)*—

Review by Authority of implementation of procedures for access, transfer and progression.

10 (a) at least once every 7 years from the date of establishment of the procedures, and

(b) from time to time as the Authority thinks appropriate.

15 (2) A relevant provider or a linked provider subject to review under *subsection (1)* shall pay to the Authority within one month of the completion of the review such fee (if any) as may be determined by the Authority under *section 74*.

20 (3) The Authority shall consult with An tÚdarás um Ard-Oideachas when carrying out a review of any provider under *subsection (1)* where the provider is funded by An tÚdarás um Ard-Oideachas.

(4) The Authority shall publish a report of its findings resulting from a review under *subsection (1)* in such form and manner as it thinks appropriate (including on the internet).

25 **52.—(1)** Where the Authority has carried out a review under *section 51*, the Authority may issue such directions in writing to a relevant provider, other than a previously established university, or to a linked provider, as the Authority thinks appropriate.

Directions of Authority following review of procedures for access, transfer and progression.

(2) The Authority shall consult with the provider concerned prior to issuing directions under *subsection (1)*.

30 (3) A provider shall comply with a direction issued under *subsection (1)*.

35 (4) A provider shall provide the Authority with information from time to time and when requested to do so by the Authority regarding the compliance by the provider with a direction issued to the provider under *subsection (1)*.

**53.—(1)** Where, in relation to a relevant provider, other than a previously established university, or in relation to a linked provider, the Authority considers that—

Withdrawal by Authority of approval of access, transfer and progression procedures.

40 (a) directions issued by the Authority to that provider under *section 52(1)* have not been complied with, or

(b) there are serious deficiencies in the implementation by that provider of procedures for access, transfer and progression of that provider,

the Authority shall, by notice in writing, inform the provider that it proposes to withdraw its approval of the procedures established under *section 50* and state the reasons for the proposed withdrawal.

(2) A notice under *subsection (1)* shall state that the provider may make representations to the Authority in writing in relation to the proposed withdrawal set out in the notice not later than one month after the service of the notice on the provider. 5

(3) Where, after consideration of any representations made to the Authority under *subsection (2)*, the Authority continues to consider that *paragraph (a)* or *(b)* of *subsection (1)* applies, it may withdraw its approval of the procedures established under *section 50*, by notice in writing addressed to the provider, from such date (not earlier than the date of service on the provider of the notice of withdrawal) as it considers appropriate and as is specified in the notice. 10

(4) A notice under *subsection (3)* shall state the reasons for the withdrawal referred to in that subsection. 15

(5) Where the Authority withdraws approval under *subsection (3)*, the provider concerned may appeal against the withdrawal to the Appeals Panel.

(6) Where the Authority withdraws approval under *subsection (3)*, the Authority shall also by notice in writing addressed to that provider, from such date (not earlier than the date of service on the provider of the notice of withdrawal) as it considers appropriate and as is specified in the notice having regard to the interests of enrolled learners concerned, where applicable to that provider, withdraw— 20  
25

(a) validation of any programmes of education and training of that provider which the Authority has validated under *section 40*, and

(b) any authority to make awards delegated to that provider under *section 47*. 30

## PART 5

### CODE OF PRACTICE AND INTERNATIONAL EDUCATION MARK

Code of Practice for provision of programme to international learners.

**54.**—(1) Subject to *subsection (6)*, the Authority shall, as soon as practicable after the establishment day, establish and publish a code of practice for the provision of a programme of education and training to international learners in the State. 35

(2) Before establishing a code of practice under *subsection (1)*, the Authority shall consult with An tÚdarás um Ard-Oideachas and such providers and other bodies as the Authority considers appropriate and, in relation to providers of programmes of education and training in English as a foreign language, the National Tourism Development Authority. 40

(3) The Authority shall publish the code of practice established under *subsection (1)* in such form and manner as it thinks appropriate (including on the internet) specifying the date on which the code shall come into operation. 45



(4) A code of practice established under *subsection (1)* may include different provisions in respect of different providers or providers of different classes.

5 (5) The Authority may amend or revoke a code of practice established under *subsection (1)*.

(6) Without prejudice to the generality of *subsection (1)*, a code of practice established under that subsection shall include provisions relating to—

- (a) the provision of information to enrolled learners,
- 10 (b) the provision of orientation and induction programmes to enrolled learners,
- (c) processes for the enrolment of learners by providers,
- (d) arrangements for the protection of enrolled learners,
- 15 (e) the accommodation, if any, which is provided for enrolled learners,
- (f) services for the support and welfare of enrolled learners,
- (g) quality assurance of the programmes of education and training where *section 27* does not apply to a provider of those programmes,
- 20 (h) requirements that programmes that lead to awards capable of recognition within the Framework are so recognised,
- (i) management of the academic progression of enrolled learners, the continued enrolment of enrolled learners and completion rates,
- 25 (j) the academic management of providers,
- (k) the qualifications of the teaching staff engaged by providers,
- (l) the management and administration of providers,
- (m) procedures for addressing grievances and complaints,
- 30 (n) the premises in which programmes are provided to enrolled learners,
- (o) marketing activities undertaken by providers,
- (p) the collection of fees from enrolled learners, and
- (q) requirements in relation to tax compliance of a provider.

35 (7) In making provision of the type referred to in *subsection (6)(d)*, arrangements for the protection of enrolled learners may include arrangements set out in *section 59* or *61*, if those sections would otherwise not apply.

40 **55.—(1)** The Authority shall specify an international education mark (in this Act referred to as the “international education mark”) to indicate that a provider is in compliance with the code of practice. International education mark.

(2) The international education mark may include such words as the Authority decides from time to time, subject to the agreement of the Minister.

(3) A provider may apply to the Authority for authorisation to use the international education mark. 5

(4) An application under *subsection (3)* shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*.

(5) The Authority shall determine an application under *subsection (3)* by assessing the compliance of the provider with the code of practice and following upon such assessment the Authority shall— 10

(a) authorise the use by that provider of the international education mark, subject to any conditions the Authority thinks appropriate, where it is satisfied that the provider is in compliance with that code, or 15

(b) refuse to authorise the use by that provider of the international education mark giving reasons for the refusal,

and shall notify the provider in writing of its decision.

(6) The Authority shall authorise the use of the international education mark by a provider under the seal of the Authority. 20

(7) The Authority shall be the proprietor of the international education mark and shall have sole power to authorise the use of the international education mark.

(8) Where the Authority refuses to authorise the use by a provider of the international education mark, the provider concerned may appeal against that refusal to the Appeals Panel. 25

(9) A provider who—

(a) uses the international education mark without the authorisation of the Authority, or

(b) falsely claims or represents that the Authority has authorised the use by the provider of the international education mark, 30

commits an offence.

(10) In any proceedings a certificate bearing the seal of the Authority stating that the register shows that on the date or during the period specified in the certificate a provider identified by the certificate was not entered in the register as being authorised to use the international education mark, is admissible as evidence of the fact that the provider was not authorised to use the international education mark by the Authority on the date or during the specified period. 35 40

(11) A document purporting to be a certificate under *subsection (10)* shall be taken to be such a certificate, unless the contrary is shown.

Annual charge for use of international education mark.

**56.—(1)** Each provider who is authorised to use the international education mark shall, upon each anniversary (in this section referred 45

to as the “liability date”) of the date of such authorisation, be liable to pay a charge (in this Act referred to as the “annual charge”) in respect of that authorisation.

5 (2) The annual charge shall be paid to the Authority on or before the liability date or before the expiration of such period as may be prescribed.

(3) Subject to *subsection (5)*, the Minister shall prescribe the annual charge to be paid having regard to the expenditure incurred or reasonably expected to be incurred by the Authority in—

- 10 (a) maintaining and developing the code of practice,  
(b) promoting the international education mark, and  
(c) maintaining the integrity, on an ongoing basis, of the code of practice, and the international education mark, in particular by ensuring the international education mark is  
15 used only by providers who are authorised to do so.

(4) Subject to *subsection (5)*, the Minister may prescribe a different annual charge under *subsection (3)* in respect of different providers or providers of different classes having regard to the following matters:

- 20 (a) the number of international learners enrolled in programmes of education and training provided by the provider;  
(b) the duration of the programmes of education and training provided to international learners.

25 (5) The amount of the annual charge prescribed under *subsection (2)* shall not exceed an amount of €50,000.

(6) The Minister may prescribe—

- 30 (a) general or special exemptions from the payment of the annual charge (wholly or partly) in different circumstances,  
(b) a reduction in the annual charge having regard to the method of payment of the charge.

(7) The annual charge shall be recoverable by the Authority as a simple contract debt in any court of competent jurisdiction.

35 **57.—(1)** The Authority may at any time review compliance by a provider authorised to use the international education mark with—

- (a) the code of practice, and  
(b) conditions (if any) attached by the Authority to the provider’s authorisation to use the international education  
40 mark.

Review by Authority of provider’s compliance with code of practice and provider’s use of international education mark.

(2) Without prejudice to the generality of *subsection (1)*, the Authority shall carry out a review under that subsection of providers of programmes of education and training in English as a foreign language at least once every 3 years.

(3) A provider subject to review under *subsection (1) or (2)* shall pay to the Authority within one month of the completion of the review such fee (if any) as may be determined by the Authority under *section 74*.

(4) Upon a review under *subsection (1) or (2)*, where the Authority considers that— 5

(a) a provider no longer complies with the code of practice, or

(b) a condition attached by the Authority to the provider's authorisation to use the international education mark is not being complied with, 10

the Authority shall, by notice in writing, inform the provider concerned that it proposes to withdraw the provider's authorisation to use the international education mark, and state the reasons for the proposed withdrawal.

(5) The notice under *subsection (4)* shall state that the provider may make representations to the Authority in relation to the proposed withdrawal set out in the notice not later than one month after the service of the notice on the provider. 15

(6) Where, after consideration of any representations made to the Authority under *subsection (5)*, the Authority continues to consider that *paragraph (a) or (b) of subsection (4)* applies, it may withdraw the provider's authorisation to use the international education mark by notice in writing addressed to the provider from such date (not earlier than the date of service on the provider of the notice of withdrawal) as it considers appropriate and as is specified in the notice. 20 25

(7) A notice under *subsection (6)* shall state the reasons for the withdrawal referred to in that subsection.

(8) In carrying out a review under *subsection (1) or (2)* the Authority may have regard to any other review of the provider carried out under this Act, where that other review is relevant to the code of practice. 30

(9) Where the Authority withdraws a provider's authorisation to use the international education mark the provider may appeal against the withdrawal to the Appeals Panel. 35

## PART 6

### PROTECTION OF ENROLLED LEARNERS

Interpretation. **58.**—This Part applies to a programme of education and training of 3 months or longer duration.

Arrangements by providers for protection of enrolled learners. **59.**—(1) Before— 40

(a) making an application under *section 39* for validation of a programme of education and training,

(b) submitting a request under *section 46* for delegation of authority to make an award in respect of a programme of education and training, or 45

- (c) notifying the Authority of a proposal under *section 47(7)* in respect of a programme of education and training,

5 a provider shall put arrangements in place, in accordance with *subsection (4)*, for the protection of enrolled learners who have begun but not completed the programme of education and training where the provider ceases to provide the programme for any reason (including by reason of the insolvency or winding up of the provider).

10 (2) A provider shall submit details of the arrangements the provider has in place in accordance with *subsection (4)* to the Authority in writing when making an application, submitting a request or notifying the Authority of a proposal referred to in *paragraph (a), (b), and (c)* of *subsection (1)*.

15 (3) Without prejudice to the generality of *subsection (1)*, a provider shall be taken to cease to provide a programme of education and training where the Authority withdraws validation of the programme under *sections 35(6), 42, or 53(6)*.

(4) The arrangements referred to in *subsection (1)* are—

20 (a) an agreement between the provider of the programme and at least 2 other providers that an enrolled learner may transfer to a similar programme of those other providers, or

25 (b) where the provider considers, with the agreement of the Authority, that it is not practicable to comply with *paragraph (a)*, that provider has arrangements in place which enable that provider to refund to an enrolled learner, or to the person who paid the moneys on behalf of the enrolled learner, the moneys most recently paid in respect of the programme concerned for—

(i) tuition fees,

30 (ii) registration fees,

(iii) examination fees,

(iv) library fees,

(v) student services fees, and

35 (vi) any other fees which relate to the provision of education, training and related services.

(5) *Subsection (1)* shall not apply where the provider of a programme of education and training is—

(a) a previously established university,

40 (b) an educational institution established as a university under section 9 of the Act of 1997,

(c) the Dublin Institute of Technology,

(d) an Institute of Technology,

(e) An Foras,

(f) the National Tourism Development Authority,

- (g) Teagasc,
- (h) An Bord Iascaigh Mhara,
- (i) an educational or training institution established and maintained by a vocational education committee,
- (j) a recognised school. 5

(6) *Subsection (1)* shall not apply in respect of a programme of education and training where no moneys are paid by, or on behalf of, an enrolled learner in respect of the programme, to the provider of that programme.

(7) A provider shall notify the Authority in writing of any change in the arrangements the provider has in place in accordance with *subsection (4)* as soon as possible after becoming aware of that change. 10

Assistance from Authority to enrolled learners to find alternative programme.

**60.**—(1) Without prejudice to the obligation of a provider to have arrangements in place under *section 59*, where a provider to whom that section applies ceases to provide a programme of education and training, the Authority shall make all reasonable efforts to assist the enrolled learners affected by the cessation to find a programme of education and training with another provider which will enable them to complete the education and training commenced with the former provider. 15 20

(2) The Authority may request any relevant provider to assist the Authority in its reasonable efforts under *subsection (1)*.

(3) Upon receipt of a request under *subsection (2)* the relevant provider concerned shall assist the Authority in so far as it is practicable to do so. 25

Obligation on providers to furnish information to enrolled learners.

**61.**—(1) A provider shall, before commencing a programme of education and training and before accepting any payment from or on behalf of an enrolled learner in respect of the programme, notify the enrolled learner in writing of the following: 30

- (a) where completion of the programme by the learner and attainment by the learner of a specified standard of knowledge, skill or competence upon such completion entitles the learner to an award—
  - (i) the name of the awarding body which will make the award, 35
  - (ii) the title of the award, and
  - (iii) whether the award is recognised within the Framework, and if so—
    - (I) the level of that recognition within the Framework, and 40
    - (II) whether the award is a Major, Minor, Special Purpose or Supplemental award as identified within the Framework;

- (b) where completion of the programme by the learner and the attainment by the learner of a specified standard of knowledge, skill or competence upon such completion does not entitle the learner to an award, that fact;
- 5 (c) where the provider is required to have procedures for access, transfer and progression in place under *section 50*, a statement of how those procedures apply to that programme;
- 10 (d) where the provider is required to have arrangements in place under *section 59*, the arrangements the provider has in place under *subsection (4)* of that section.

(2) A provider to whom *subsection (1)* applies shall notify the enrolled learner in writing of any change in the information notified to the learner under *subsection (1)* within 14 days after becoming  
15 aware of that change.

(3) A provider who—

- (a) fails to comply with *subsection (1)* or (2), or
- (b) in purported compliance with *subsection (1)* or (2), provides an enrolled learner with information which is false  
20 or misleading in a material respect,

commits an offence.

## PART 7

### APPEALS

25 **62.—(1)** The Minister shall, as soon as practicable after the establishment day, establish an Appeals Panel and shall appoint at least 10 people with a special interest or expertise in, or knowledge of, the functions of the Authority (other than members of the Authority or staff of the Authority) to be members of that Panel. Appeals Panel.

30 (2) A person shall not be appointed to an Appeals Panel if he or she is a person to whom any of *paragraphs (a) to (f)* of *subsection (10)* is applicable.

(3) A member of the Appeals Panel shall hold office for such period, not exceeding 5 years from the date of his or her appointment, as the Minister determines.

35 (4) The Minister shall appoint a chairperson of the Appeals Panel from among the members of the Appeals Panel.

(5) A member of the Appeals Panel whose term of membership of the Appeals Panel expires shall be eligible for reappointment as a member of the Panel.

40 (6) A member of the Appeals Panel is entitled to be paid such remuneration, fees or allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.

(7) A member of the Appeals Panel may at any time resign from office by giving notice in writing to the Minister of his or her resignation.

(8) A resignation under *subsection (7)* takes effect on the day on which the Minister receives the notice. 5

(9) The Minister may at any time remove from office a member of the Appeals Panel 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 10

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

(10) A member of the Appeals Panel shall cease to be qualified for office and shall cease to hold office if he or she— 15

(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 20 company,

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

(f) is the subject of an order under section 160 of the Companies Act 1990.

(11) If a member of the Appeals Panel dies, resigns, ceases to be 25 qualified for office or is removed from office, the Minister may appoint a person to be a member of the Appeals Panel to fill the casual vacancy so occasioned.

(12) A person appointed to be a member of the Appeals Panel pursuant to *subsection (11)*— 30

(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 reappointment as a member of the Panel on the expiry of that period. 35

(13) An Appeals Panel is independent in the performance of its functions.

Determination of appeal by Appeals Board.

**63.—(1)** An appeal—

(a) shall be lodged with the Appeals Panel within the time provided for by procedures prescribed under *section 64*, 40 and

(b) shall state the grounds for the appeal.



(2) An appeal shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*.

5 (3) Upon receipt by the Appeals Panel of an appeal, an Appeals Board of 3 persons shall be appointed by the chairperson of the Appeals Panel from among the members of the Panel to determine the appeal.

10 (4) The chairperson of an Appeals Board shall be appointed by the chairperson of the Appeals Panel from among the members of the Board and that chairperson shall regulate the procedure of the Board.

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

15 (6) An Appeals Board may hold such hearings as it considers necessary for the purpose of determining an appeal.

(7) Each of the parties to an appeal is entitled to be heard at the hearing and to present evidence to the Appeals Board.

(8) An Appeals Board may adjourn the hearing by it of a matter until a date specified by it.

20 (9) A decision by a majority of the members of an Appeals Board shall suffice for any purpose.

(10) In determining an appeal, an Appeals Board may—

(a) affirm the decision of the Authority, or

25 (b) quash the decision of the Authority and direct the Authority, for stated reasons, to reconsider its decision.

(11) An Appeals Board shall communicate its determination under *subsection (10)*, including the reasons under *paragraph (b)* of that subsection, to the provider who brings the appeal, the Authority and the Appeals Panel.

30 (12) The Authority shall comply with a direction given to it under *subsection (10)(b)*.

(13) An Appeals Board is independent in the performance of its functions.

35 **64.—(1)** Procedures shall be prescribed for the hearing and determination of the appeals provided for in this Act, following consultation with the Appeals Panel and the Authority, as soon as practicable after the appointment of the Appeals Panel. Appeal procedures.

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

40 (3) Without prejudice to the generality of *subsection (1)*, procedures prescribed under this section may—

(a) specify the forms to be used for bringing an appeal,

- (b) specify the time within which an appeal shall be brought after the date of the decision of the Authority that is being appealed,
- (c) specify the time within which an appeal shall be heard,
- (d) specify the information which shall be provided to the Appeals Panel, 5
- (e) require specified notifications to be given in respect of the bringing of an appeal,
- (f) specify the period within which the Appeals Board hearing the appeal shall, from the date of completion by it of a hearing or hearings in relation to an appeal, make its determination in relation to the matter. 10

## PART 8

### DISSOLUTION OF BODIES

Dissolution of National Qualifications Authority of Ireland, Higher Education and Training Awards Council and Further Education and Training Awards Council.

**65.—**(1) Subject to *section 79*, the National Qualifications Authority of Ireland, the Higher Education and Training Awards Council and the Further Education and Training Awards Council (each of which is referred to in this Act as a “dissolved body”) are dissolved. 15

(2) References in any enactment (other than this Act) or instrument under an enactment, or in the memorandum or articles of association of any company or in any other legal document to a dissolved body, or a reference that is under section 33(2) of the Act of 1999 to be construed as a reference to a dissolved body, shall be construed as a reference to the Authority. 20

(3) This section shall come into operation on the establishment day. 25

Liability for loss occurring before establishment day.

**66.—**(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day of the functions of a dissolved body shall on and after that day lie against the Authority and not against the dissolved body. 30

(2) Where immediately before the establishment day, any legal proceedings are pending in any court or tribunal to which a dissolved body is a party, the name of the Authority shall be substituted for that of the dissolved body and the proceedings shall not abate by reason of such substitution. 35

(3) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates and the terms of the agreement have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, then the terms of the agreement or judgment, as the case may be, shall, in so far as they would have been enforceable against a dissolved body, be enforceable against the Authority and not the dissolved body. 40

(4) Any claim made or proper to be made by a dissolved body in respect of any loss or injury arising from the act or default of any person before the establishment day shall on and after that day be 45

regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority.

5 **67.—(1)** On the establishment day, all lands that, immediately before that day, were vested in a dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Authority for all the estate and interest therein that, immediately before the establishment day was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed.

Transfer of land and other property to Authority.

15 (2) On the establishment day all property (other than land), including choses-in-action, that, immediately before that day, was vested in a dissolved body shall stand vested in the Authority without any assignment.

20 (3) Every chose-in-action vested in the Authority by virtue of *subsection (2)* may, on and from the establishment day, be sued on, recovered or enforced by the Authority in its own name, and it shall not be necessary for the Authority to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

25 **68.—(1)** All rights and liabilities of a dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the establishment day shall on that day stand transferred to the Authority.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body.

30 (2) Every right and liability transferred by *subsection (1)* to the Authority may, on and after the establishment day, be sued on, recovered or enforced by or against the Authority in its own name, and it shall not be necessary for the Authority to give notice of the transfer to the person whose right or liability is transferred by that subsection.

35 (3) Every lease, licence, wayleave or permission granted by a dissolved body in relation to land or other property vested in the Authority by or under this Act, and in force immediately before the establishment day, shall continue in force on and after that day as if granted by the Authority.

40 **69.—(1)** Anything commenced and not completed before the establishment day by or under the authority of a dissolved body may, in so far as it relates to a function transferred to the Authority under this Act, be carried on or completed on or after the establishment day by the Authority.

Provisions consequent upon transfer of assets and liabilities to Authority.

45 (2) Any money, stocks, shares or securities transferred by *section 67* that immediately before the establishment day were standing in the name of a dissolved body shall, on the request of the Authority, be transferred into its name.

(3) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the Authority under *section 67* or *68* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

(4) A document which purports to be a certificate signed by the Minister referred to in *subsection (3)* shall be taken to be such a certificate unless the contrary is shown.

Records of dissolved bodies.

**70.**—Each record held by a dissolved body immediately before the establishment day is on that day transferred to the Authority and is, on and from that day, held by the Authority. 5

Final accounts and final report of dissolved bodies.

**71.**—(1) The Authority shall prepare, in respect of the period specified under *subsection (3)*, final accounts for each dissolved body.

(2) The Authority shall submit the final accounts to the Comptroller and Auditor General for audit within 3 months of the establishment day. 10

(3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the dissolved body concerned.

(4) The Authority shall prepare a final report for each dissolved body and shall submit the report to the Minister within 6 months of the establishment day. 15

(5) The Minister shall, as soon as may be after receiving a final report under *subsection (4)*, cause copies of the report to be laid before each House of the Oireachtas. 20

(6) The Authority shall arrange for the final reports for each dissolved body to be published on the internet as soon as practicable after copies of the report are so laid.

## PART 9

### MISCELLANEOUS PROVISIONS 25

Register of providers.

**72.**—(1) The Authority shall establish and maintain a register to be known as the Register of Providers (in this Act referred to as the “register”).

(2) The Authority shall enter the information set out in *subsection (3)* in the register in respect of each provider— 30

(a) who is authorised to use the international education mark,

(b) who has arrangements in place in accordance with *section 59*.

(3) The information referred to in *subsection (2)* is—

(a) the provider’s name, address and contact details, 35

(b) whether the provider is authorised to use the international education mark,

(c) in the case of a provider with arrangements in place in accordance with *section 59*, in relation to each programme of education and training— 40

(i) the name of the programme provided,

(ii) where *subsection (4)(a)* of that section applies, the names and addresses of the other providers, and the name of the relevant programme of education and training of each of those other providers,

5 (iii) where *subsection (4)(b)* of that section applies, the nature of the arrangements for the provision of a refund referred to in that subsection.

(4) If a particular entered in the register is incorrect or has ceased to be correct, the provider to which the entry relates shall, as soon as may be after becoming aware of its being incorrect, inform the Authority accordingly.

(5) The Authority shall, upon becoming aware that any particular entered in the register is incorrect or has ceased to be correct, make such alterations to the register as it considers necessary.

15 (6) The Authority shall make the register available for inspection by members of the public at all reasonable times at its principal office and shall also publish the register on the internet.

**73.—(1)** The Authority shall establish and maintain a database Database. providing information on—

- 20 (a) awards recognised within the Framework,
- (b) programmes of education and training which lead to awards recognised within the Framework, and
- (c) any other programmes the Authority thinks appropriate.

(2) The database shall include the following information:

25 (a) in relation to an award recognised within the Framework—

- (i) the name of the award,
- (ii) the awarding body which makes the award,
- 30 (iii) the level at which the award is recognised within the Framework for the time being, and
- (iv) whether the award is a Major, Minor, Special Purpose or Supplemental award as identified within the Framework for the time being;

(b) in relation to a programme of education and training—

- 35 (i) the name of the provider of the programme,
- (ii) the title of the programme,
- (iii) the duration of the programme,
- (iv) the award made if the programme is successfully completed,
- 40 (v) the awarding body making the award if the programme is successfully completed,

- (vi) whether the award made in respect of the programme is recognised within the Framework, and if so—
  - (I) the level at which the award is recognised within the Framework, and
  - (II) whether the award is a Major, Minor, Special Purpose or Supplemental award as identified within the Framework, 5
- (vii) the name of the person who provides the quality assurance for the programme, and
- (viii) whether the provider of that programme is authorised to use the international education mark. 10

(3) The Authority may maintain an existing database to provide the information set out in *subsections (1) and (2)* and where the Authority does so, the existing database shall be taken to be a database established by the Authority for the purposes of *subsection (1)*. 15

(4) If a particular entered in the database is incorrect or has ceased to be correct the provider to which the particular relates shall, as soon as may be after becoming aware of its being incorrect, inform the Authority accordingly.

(5) The Authority shall, upon becoming aware that any particular entered in the database is incorrect or has ceased to be correct, make such alterations to the database as it considers necessary. 20

(6) The Authority shall make the database available for inspection by members of the public at all reasonable times at its principal office and shall also publish the database on the internet. 25

Fees.

**74.—(1)** The Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine the fees payable by a provider or a learner, as the case may be, to the Authority for—

- (a) the submission of quality assurance procedures to the Authority for approval under *section 29*, 30
- (b) a review undertaken under *section 33*,
- (c) an application for validation of a programme or class of programme of education and training under *section 39*,
- (d) a review under *section 41*, 35
- (e) the making of an award by the Authority under *section 45*,
- (f) a request for delegation of authority to make an award under *section 46*,
- (g) a review under *section 48*,
- (h) the submission of procedures for access, transfer and progression in relation to learners for approval under *section 50*, 40
- (i) a review under *section 51*,

(j) an application for authorisation to use the international education mark under *section 55*,

(k) a review under *section 57*,

(l) lodging an appeal under *section 63*.

5 (2) The fees determined under *subsection (1)* shall be paid in the time and manner specified by the Authority.

(3) The Authority may, in relation to different applications, requests, submissions and reviews, or different classes of applications, requests, submissions and reviews, provide for—

10 (a) different fees,

(b) exemptions from the payment of fees in specified circumstances, and

(c) waivers, remissions or refunds (wholly or partly) of fees in specified circumstances.

15 (4) The Authority may, in providing for different fees, exemptions, waivers, remissions or refunds referred to in *subsection (3)*, have regard to the amount and complexity of the work involved in considering the applications, requests, submissions and conducting reviews, taking into account the size of the provider concerned.

20 (5) The Authority may provide for the payment of reduced fees under this section having regard to the method of payment of the fees.

(6) The Authority shall arrange for the publication on the internet of fees payable as soon as practicable after the fees have been determined under *subsection (1)*.

25 (7) The Authority may recover any amount due and owing to it under this section from the provider or learner, as the case may be, by whom it is payable as a simple contract debt in any court of competent jurisdiction.

30 (8) The Authority may amend the fees determined under *subsection (1)* to take account of any change in the consumer price index since the determination of the fees for the time being in force, without the necessity for the consent of the Minister or the Minister for Public Expenditure and Reform under *subsection (1)*.

35 (9) For the purposes of this section, “change in the consumer price index” means the difference between—

(a) the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the last determination under this section, and

40 (b) that Number last published before the date of the review under *subsection (6)*,

expressed as a percentage of the first-mentioned number.

Provider not to be described as “institute of technology” or “regional technical college”.

**75.—**(1) The words “institute of technology” or “regional technical college” shall not, without the approval of the Minister, be used to describe a provider of a programme of education and training.

(2) *Subsection (1)* shall not apply to a provider of a programme of education and training where the provider was established and described as an “institute of technology” or “regional technical college” before 11 June 2001. 5

(3) The Minister may apply to the High Court for an order to restrain a person from using the words “institute of technology” or “regional technical college” in contravention of *subsection (1)*. 10

Charter of Institute of Technology.

**76.—**(1) An Institute of Technology to which authority to make an award has been delegated under *section 47* shall have a charter.

(2) The Minister may make regulations for the purposes of specifying the matters to be included in a charter referred to in *subsection (1)*. 15

(3) Without prejudice to the generality of *subsection (2)*, regulations made under that subsection may specify all or any of the following:

(a) arrangements for consultation and co-operation with the community, including commercial and industrial interests in that community, in the region served by the Institute of Technology concerned; 20

(b) criteria for determining the level of demand for particular programmes of education and training;

(c) policy in respect of adult and continuing education and the arrangements established for the provision of such education, including part-time and evening programmes; 25

(d) arrangements for the implementation of procedures for access, transfer and progression in relation to learners approved by the Authority under *section 50*; 30

(e) arrangements for the promotion and use of the Irish language and the promotion of the distinctive cultures of Ireland;

(f) quality assurance procedures the Institute of Technology has in place for its programmes of education and training; 35

(g) any other matter which the Minister considers appropriate for the purposes of a charter.

(4) Regulations made under *subsection (2)* may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of those regulations. 40

(5) In preparing a charter, the governing body of an Institute of Technology—

(a) shall consult with the Authority in such manner as the Authority directs, 45



5 (b) shall consult, in such manner as the governing body thinks appropriate, with the academic council, the academic staff and other staff of the Institute, any recognised trade union or staff association, and any recognised student union or other student representative body, and

(c) may consult with any other person which the governing body considers appropriate.

10 (6) The governing body of an Institute of Technology shall submit a draft of a charter to the Minister and request that the Minister recognise the charter.

(7) The Minister may, by order, recognise the charter submitted under *subsection (6)* where he or she is satisfied that the charter is not in conflict with this Act or with the Institutes of Technology Acts 1992 to 2006.

15 (8) An order made under *subsection (7)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under the charter recognised by the order.

(9) The Minister shall consult with the relevant Institute of Technology before revoking an order made under *subsection (7)*.

25 **77.—(1)** A notice or other document that is required to be served on or given to a person under this Act may be so served on or given to the person in one of the following ways: Service of documents.

(a) by delivering it to the person;

30 (b) by leaving it at the address at which the person ordinarily resides or, if the person has given an address for service, at that address; or

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, if the person has given an address for service, to that address.

35 (2) Where the address at which a person ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, the person in respect of any premises, the notice may be served by affixing it in a conspicuous position on or near the premises.

40 (3) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under this Act may be addressed to “the occupier”, “the owner” or “the person in charge”, as the case may be.

(4) *Subsection (2)* shall not apply to a notice that is required to be served on or given to—

45 (a) the Authority,

(b) the Minister, or

(c) a learner under *section 61*.

(5) A person shall not at any time during the period of 3 months after a notice is affixed under *subsection (2)* remove, damage or deface the notice without lawful authority.

(6) A person who contravenes *subsection (5)* commits an offence.

(7) For the purpose of this section, a company shall be taken to be ordinarily resident at its registered office, and any other body corporate or unincorporated body of persons shall be taken to be ordinarily resident at its principal office or place of business.

## PART 10

### TRANSITIONAL AND SAVINGS PROVISIONS FOR ACT OF 1999 AND AMENDMENTS OF OTHER ACTS

Transitional and savings provision for Act of 1999.

**78.**—(1) Where a relevant provider, other than a previously established university, has established and agreed quality assurance procedures under section 18, 28, 39 or 42 of the Act of 1999, and those procedures were in force immediately before the coming into operation of *section 27*, then, on that coming into operation, those procedures shall continue in force as if they had been established under that section and this Act shall apply accordingly.

(2) Where a previously established university has established quality assurance procedures under section 35 of the Act of 1997, and those procedures were in force immediately before the coming into operation of *section 27*, then, on that coming into operation, those procedures shall continue in force as if they had been established under that section and this Act shall apply accordingly.

(3) A review under—

(a) section 18(4), section 28(4), section 39(4) or section 42(4) of the Act of 1999, or

(b) section 35(4) of the Act of 1997,

which is in the process of being conducted, shall, on the coming into operation of *section 33*, be a review for the purposes of that section and this Act shall apply accordingly.

(4) Where a programme of education and training has been validated by the Further Education and Training Awards Council or the Higher Education and Training Awards Council under section 15 or 25 of the Act of 1999, as the case may be, and that validation has not been withdrawn before the coming into operation of *section 40*, then on that coming into operation—

(a) the programme shall be taken to have been validated by the Authority under *section 40*, and

(b) any conditions imposed under subsection (4) of section 15 or subsection (4) of section 25, of the Act of 1999, shall be taken to be conditions imposed under *section 40(2)*,

and this Act shall apply accordingly.

(5) Where an application for validation of a programme of education and training has been made under section 15(1) or section 25(1) of the Act of 1999 but on the coming into operation of *section*

39 no decision has been made by the Further Education and Training Awards Council or the Higher Education and Training Awards Council in respect of the application, that application shall continue under *section 39* and this Act shall apply accordingly.

5 (6) After the coming into operation of *section 39*, and until the Authority establishes the policies and criteria for the validation of programmes of education and training under that section, the poli-  
cies and criteria for validation established under *section 14(1)(a)(ii)*  
10 or *section 23(1)(a)(ii)* of the Act of 1999, as the case may be, shall continue to apply in relation to an application for validation under *section 39*.

(7) A further education and training award made by the Further Education and Training Awards Council under *section 14(1)(c)* of the Act of 1999 before the coming into operation of *section 45* shall,  
15 on the coming into operation of that section, be taken to be an award made by the Authority under that section.

(8) A higher education and training award made by the Higher Education and Training Awards Council under *section 23(1)(c)* of the Act of 1999 before the coming into operation of *section 45* shall,  
20 on the coming into operation of that section, be taken to be an award made by the Authority under that section.

(9) After the coming into operation of *section 45*, and until the Authority in accordance with *section 44(1)* determines the standards of knowledge, skill or competence to be acquired, and where appropriate, demonstrated, by a learner before an award may be made by the Authority or by a provider to whom authority to make an award has been delegated, standards of knowledge, skill or competence to be acquired by a learner determined under *section 14(1)(b)* or *section 23(1)(b)* of the Act of 1999, as the case may be, shall continue  
25 to apply before an award may be made by the Authority or by a provider to whom authority to make an award has been delegated.  
30

(10) After the coming into operation of *section 45*, and until the Authority in accordance with *subsection (1)* of that section establishes policies and criteria for the making of awards by the Authority and a provider to whom authority to make an award has been delegated, policies and criteria for the making of awards established under *section 14(1)(a)(i)* or *section 23(1)(a)(i)* of the Act of 1999, as the case may be, shall continue to apply to the making of an award by the Authority.  
35

40 (11) Where authority to make a further education and training award or a higher education and training award has been delegated to a provider under *section 19(5)* or *section 29(5)* of the Act of 1999 and—

(a) the authority has not been withdrawn under *section 20* or *section 30* of that Act as the case may be, or

45 (b) a decision to withdraw the authority has been overturned by the National Qualifications Authority of Ireland on appeal under the Act of 1999,

before the coming into operation of *section 47*, then, on that commencement—

50 (i) that authority shall be taken to have been delegated under *section 47*,

(ii) any conditions imposed under section 19, other than conditions referred to in paragraphs (a) to (d) of subsection (6) of that section, or section 29, other than conditions referred to in paragraphs (a) to (d) of subsection (6) of that section, of the Act of 1999 shall be taken to be conditions imposed by the Authority under *section 47(4)(b)*, and 5

(iii) any conditions referred to in paragraphs (a) to (d) of subsection (6) of section 19, or in paragraphs (a) to (d) of subsection (6) of section 29, of the Act of 1999, shall be taken to be conditions imposed by the Authority under *section 47(4)(a)*, 10

and this Act shall apply accordingly.

(12) Where a request has been made under section 19(1) or section 29(1) of the Act of 1999 for delegated authority to make an award but on the coming into operation of *section 46* no decision has been made by the Further Education and Training Awards Council or the Higher Education and Training Awards Council in respect of that request, that request shall be taken to be a request under *section 46* and this Act shall apply accordingly. 15 20

(13) After the coming into operation of *section 47*, and until the Authority establishes criteria for the determination of a request for delegation of authority to make an education and training award, then—

(a) criteria determined under section 19(3) of the Act of 1999 shall apply to a request by a provider specified in *paragraph (b), (c) or (d) of section 46(2)*, and 25

(b) criteria determined under section 29(3) of the Act of 1999 shall apply to a request by a provider specified in *paragraph (a) of section 46(2)*, 30

except in so far as the criteria determined under section 19(3) or 29(3) of the Act of 1999 may be inconsistent with this Act.

(14) After the coming into operation of *section 50*, and until the Authority establishes policies and criteria for access, transfer and progression of learners, a provider to whom that section applies shall establish procedures for access, transfer and progression of learners under *subsection (2)* of that section, in accordance with procedures established by the National Qualifications Authority of Ireland under section 8(2)(d) of the Act of 1999. 35

(15) *Section 48* shall apply to a review commenced under section 20 or 30 of the Act of 1999 but not completed before the coming into operation of *section 48* and this Act shall apply accordingly. 40

(16) A charter recognised under section 31 of the Act of 1999 that was in force immediately before the coming into operation of *section 76* shall be, on the coming into operation of that section, in so far as the charter does not conflict with this Act or the Institutes of Technology Acts 1992 to 2006, a charter recognised under *section 76* and this Act shall apply accordingly. 45

Transition for  
appeals under Act  
of 1999.

**79.**—(1) Notwithstanding the repeal of sections 17, 20, 27 and 30 of the Act of 1999 by *section 6(1)* an appeal commenced but not determined under— 50

- (a) section 17(1),
- (b) section 20(4),
- (c) section 27(1), or
- (d) section 30(4),

5 of the Act of 1999 shall, upon the repeal of those provisions, be continued under the Act of 1999 as if those provisions had not been repealed.

(2) Notwithstanding *section 65*—

10 (a) the National Qualifications Authority of Ireland shall continue in being for the purpose only of determining an appeal referred to in *subsection (1)*, and

15 (b) the Further Education and Training Awards Council and the Higher Education and Training Awards Council shall continue in being for the purpose only of performing any function conferred on either of them by or under the Act of 1999 in relation to such an appeal.

(3) A decision of the National Qualifications Authority of Ireland upon the determination of an appeal referred to in *subsection (1)* shall take effect as if that decision were a decision of an Appeals  
20 Board under *section 63* and this Act shall apply accordingly.

**80.**—Each provision specified in *column 3* of *Schedule 3* of each Act specified in *column 2* of that Schedule is amended in the manner specified in *column 4* opposite the mention of that provision. Amendments of other Acts.

## SCHEDULE 1

## QUALIFICATIONS AND QUALITY ASSURANCE AUTHORITY OF IRELAND

1. (1) The Authority shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name, and shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and shall have power to acquire, hold and dispose of any other property.

(2) The seal of the Authority shall be authenticated by—

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

(b) the signatures of a member of the Authority and a member of the staff of the Authority,

authorised by the Authority to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Authority and any document purporting to be an instrument made by, and sealed with the seal of, the Authority shall, unless the contrary is shown, be received in evidence and taken to be such an instrument without further proof.

2. (1) The Authority shall consist of 8 members including the chief executive.

(2) The members of the Authority, other than the chief executive, shall be appointed by the Minister.

(3) The Minister shall, in appointing the members of the Authority, ensure that the members are persons who have experience of, and expertise in relation to, the functions of the Authority, and shall include among those members—

(a) at least one person who has international experience related to those functions, and

(b) at least one person who is a representative of learners.

(4) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Authority there is an equitable balance between men and women.

(5) The Minister shall appoint a chairperson of the Authority from among the members of the Authority, other than the chief executive.

(6) A member of the Authority, other than the chief executive, shall hold office for such period as the Minister determines, but the period shall not exceed 5 years from the date of the member's appointment.

(7) Subject to *subparagraph (8)*, a member of the Authority whose term of office expires under *subparagraph (6)* is eligible for reappointment to the Authority.

(8) A person who is reappointed to the Authority in accordance with *subparagraph (7)* shall not hold office for periods the aggregate of which exceeds 10 years.

5 (9) Each member of the Authority, other than the chief executive, shall act on a part time basis.

3. (1) A member of the Authority, other than the chief executive, holds office upon such terms and conditions (including terms and conditions relating to remuneration, allowances or expenses) as may be determined by the Minister, with the consent of the Minister for  
10 Public Expenditure and Reform.

(2) A member of the Authority, other than the chief executive, shall be paid by the Authority such allowances or expenses as the Minister determines, with the approval of the Minister for Public Expenditure and Reform.

15 4. (1) A member of the Authority, other than the chief executive, 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.

20 (2) Where the chairperson of the Authority resigns as chairperson he or she shall at the same time cease to be a member of the Authority.

(3) The Minister may at any time remove from office a member of the Authority if, in the opinion of the Minister—

25 (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 the Minister to be necessary for the effective performance by the Authority of its functions.

30 (4) A member of the Authority 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,

35 (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,

40 (f) is the subject of an order under section 160 of the Companies Act 1990, or

(g) is removed from office pursuant to *paragraph 10(6)*.

5. (1) If a member of the Authority, other than the chief executive, 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 Authority to fill the casual vacancy so occasioned.

(2) A person appointed to be a member of the Authority 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 5

(b) is eligible for reappointment as a member of the Authority on the expiry of that term of office.

6. (1) The Authority shall hold at least 4 meetings in any 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. 10

(2) The Minister shall fix the date, time and place of the first meeting of the Authority. 15

(3) The chairperson shall convene a meeting of the Authority when requested to do so by not less than the number of members which constitute a quorum.

(4) The quorum for a meeting of the Authority shall, unless the Minister otherwise directs, be 4. 20

(5) At a meeting of the Authority—

(a) the chairperson of the Authority shall, if present, be the chairperson of the meeting, or

(b) if and so long as the chairperson of the Authority is not present or if that office is vacant, the other members of the Authority who are present shall choose one of their number to be chairperson of the meeting. 25

(6) Every question at a meeting of the Authority shall be determined by a majority of the votes of the members of the Authority 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. 30

(7) Subject to *subparagraph (4)*, the Authority may act notwithstanding one or more vacancies among its members.

(8) Subject to the provisions of this Act, the Authority shall regulate its procedure (including procedure for electronic meetings). 35

(9) The Authority 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”).

(10) A member of the Authority who participates in an electronic meeting is taken for all purposes to have been present at the meeting. 40

7. (1) The Authority may establish committees, consisting wholly or partly of persons who are members of the Authority, to—

(a) assist and advise it in relation to the performance of any or all of its functions, and 45



(b) perform such functions of the Authority as may stand delegated to those committees under *paragraph 8*.

(2) In appointing members of a committee established under this paragraph, the Authority shall have regard to—

5 (a) the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and

(b) the desirability of there being an appropriate balance between men and women on the committee.

10 (3) The Authority may pay to members of a committee established under this paragraph such allowances or expenses (if any) incurred by them as the Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine.

15 (4) The Authority 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 Authority, unless the Authority otherwise determines.

(6) A committee established under this paragraph may regulate, by standing orders or otherwise, its procedure and business.

20 (7) The Authority may appoint a person to be chairperson of a committee established under this paragraph.

25 (8) A committee shall provide the Authority with such information as the Authority may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the Authority of its functions.

(9) The Authority may at any time dissolve a committee established under this paragraph.

30 8. The Authority may, with the consent of the Minister, delegate one or more of its functions as it considers appropriate to a committee established under *paragraph 7*.

9. (1) Where a member of the Authority is—

(a) nominated as a member of Seanad Éireann,

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

35 (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 Authority.

(2) Where a member of the staff of the Authority is—

40 (a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a representative in 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 the Authority and shall not be paid by, or be entitled to receive from, the Authority any remuneration or allowances in respect of the period commencing on that nomination or election or when he or she is so regarded as having been so elected (as the case may be) and ending when he or she ceases to be a member of either such House or a representative in that Parliament.

(3) A period of secondment under *subparagraph (2)* shall not, for the purposes of any superannuation benefit, be reckoned as service with the Authority.

(4) 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 representative in the European Parliament shall be disqualified, while he or she is so entitled or is such a representative, from being a member of the Authority, a member of a committee established under *paragraph 7* or a member of the staff of the Authority.

10. (1) *Subparagraph (2)* applies where at a meeting of the Authority any of the following matters arise, namely—

- (a) an arrangement to which the Authority is a party,
- (b) an arrangement to which the Authority proposes to become a party,
- (c) a contract or other agreement with the Authority, or
- (d) a proposed contract or other agreement with the Authority.

(2) Any member of the Authority 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 Authority 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 Authority 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 Authority by whom the disclosure is made shall not be counted in the quorum for the meeting.

(4) Where at a meeting of the Authority a question arises as to whether or not a course of conduct, if pursued by a member of the

Authority, 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 Authority, the chairperson of the meeting is the member in respect of whom a question to which *subparagraph (4)* applies falls to be determined, then the other members of the Authority 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 Authority has contravened *subparagraph (2)*, the Minister may, if he or she thinks appropriate, remove that member from office.

11. *Subparagraphs (1) to (5) of paragraph 10* shall apply to a member of a committee established under *paragraph 7* where the member is not also a member of the Authority and for the purposes of that application—

(a) a reference to a member of the Authority shall be construed as reference to a member of the committee,

(b) a reference to the Authority shall be construed as reference to the committee.

12. (1) Where a member of the staff of the Authority, otherwise than in his or her capacity as such a member, has a pecuniary interest or other beneficial interest in, or material to, any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the Authority is a party, that person shall—

(a) disclose to the Authority his or her interest and the nature thereof,

(b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by the Authority or members of the staff of the Authority or committee, as the case may be, in relation to it, or

(c) not influence (or seek to influence) a decision to be made, or make any recommendation, in relation to the contract, agreement or arrangement.

(2) A reference in *subparagraph (1)* to a contract does not include a contract or proposed contract of employment of a member of the staff of the Authority.

(3) Where a member of the staff of the Authority contravenes this paragraph the Authority may—

(a) make any alterations to the member's terms and conditions of employment it considers appropriate, or

(b) terminate the member's contract of employment.

13. (1) A person shall not disclose confidential information obtained by him or her while performing functions as—

(a) a member, or member of the staff of, or an adviser or consultant to, the Authority, or a member of the staff of such an adviser or consultant, or

(b) a member of a committee established under *paragraph 7*,

unless he or she is authorised by the Authority to so do. 5

(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 Authority, 10

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

(c) by a member of the Authority to the Minister.

(4) In this paragraph “confidential information” includes—

(a) information that is expressed by the Authority to be confidential either as regards particular information or as regards information of a particular class or description, and 15

(b) proposals of a commercial nature or tenders submitted to the Authority by contractors, consultants or any other person. 20

PART 1

ACTS REPEALED

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Short title (1)	Extent of repeal (2)
Universities Act 1997	Section 35
Qualifications (Education and Training) Act 1999	The whole Act.

PART 2

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STATUTORY INSTRUMENT REVOKED

Qualifications (Education and Training) Act 1999 (Section 31)  
Regulations 2007 (S.I. No. 571 of 2007)

## SCHEDULE 3

## AMENDMENTS OF OTHER ACTS

	Act	Provision	Amendment	
1.	Higher Education Authority Act 1971	Schedule	Delete paragraph 10.	
2.	Labour Services Act 1987	Section 4	In subsection (2) (amended by section 62 of the Act of 1999) substitute “ <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> ” for “Qualifications (Education and Training) Act 1999”.	5 10
3.	Regional Technical Colleges Act 1992	Section 5(1)	Delete paragraphs (b) and (bb) (amended by section 32(c) of the Act of 1999).	15
4.	Regional Technical Colleges Act 1992	Third Schedule (amended by section 26 of the Institutes of Technology Act 2006)	Substitute the following paragraph for paragraph 7:  “7. Unless he or she resigns, retires or is removed from office, a Director shall hold office for such period as the governing body, with the consent of the Minister, determines, but the period shall not exceed 10 years from the date of the Director’s appointment.”.	20 25 30
5.	Freedom of Information Act 1997	Third Schedule, Part 1	Insert in column (2):  “ <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> ” and opposite that insertion, in column (3), insert the words “ <i>paragraph 13 of Schedule 1</i> ”.	35 40
6.	Freedom of information Act 1997	First Schedule, paragraph 1(2)	Insert the following:  “the Qualifications and Quality Assurance Authority of Ireland,”.	45
7.	Universities Act 1997	Section 9	Insert the following subsections after subsection (4):  “(5) In determining the amount of money to be allocated for the financial year to a university established under subsection (2) from moneys provided to An tÚdarás pursuant to section 12 of the Higher Education Authority Act 1971 and section 37(2), an tÚdarás shall ensure that the range and levels of programmes of education and training in that university and the	50 55 60

	Act	Provision	Amendment
5 10 15 20 25			<p>number of enrolled learners (within the meaning of the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i>) participating in those programmes are in accordance with such policies as may be determined from time to time by the Minister.</p> <p>(6) An tÚdarás may give directions to a university for the purposes of subsection (5).</p> <p>(7) A university established under subsection (2) shall act in accordance with such directions as may be given from time to time by An tÚdarás to the university under subsection (6).”.</p>
30 35 40 45 50 55 60 65	8. Universities Act 1997	Section 34	<p>Insert the following subsections after subsection (3):</p> <p>“(4) Where the governing authority of a university established under section 9(2) approves a strategic development plan under this section it shall—</p> <p>(a) ensure that the plan provides the means by which that university shall comply with any requirements imposed on the university under the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i>, and</p> <p>(b) provide a copy of that plan to the Qualifications and Quality Assurance Authority of Ireland.</p> <p>(5) Where the chief officer of a university established under section 9(2) prepares a report on the operations and the performance of that university under section 41, he or she shall have regard to the part or</p>

	Act	Provision	Amendment	
			parts of the strategic development plan under this section relevant to any requirements imposed on that university under the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> .	5
			(6) An tÚdarás shall consult with the Qualifications and Quality Assurance Authority of Ireland with regard to the means by which a university established under section 9(2) shall comply with any requirements imposed on the university under the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> when reviewing a strategic development plan prepared by the university in accordance with this section.”.	10 15 20 25 30
9.	Universities Act 1997	Section 49	Delete paragraph (b).	
10.	Taxes Consolidation Act 1997	Part 1 of Schedule 26A (inserted by section 45(4) of the Finance Act 2001)	Substitute the following paragraph for paragraph 5:  “5. An institute of higher education in the State which provides courses which are validated by the Qualifications and Quality Assurance Authority of Ireland under the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> .”.	35 40 45
11.	Education Act 1998	Section 41(2)	Insert the following paragraph after paragraph (d):  “(da) to co-operate with the Qualifications and Quality Assurance Authority of Ireland in respect of the framework of qualifications under the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> .”.	50 55 60
12.	Teaching Council Act 2001	Section 8(2)(d)	In subparagraph (xi) to delete the words “(within the meaning of the Qualifications (Education and Training) Act 1999)”.	65



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	Act	Provision	Amendment
13.	The Royal College of Surgeons in Ireland (Charters Amendment) Act 2003	Section 33	In subsection (2), substitute “the <i>Qualifications and Quality Assurance (Education and Training) Act 2011</i> ” for “the Qualification (Education and Training) Act 1999”.
14.	Building Control Act 2007	Section 14	Substitute the following subsection for subsection (6):  “(6) For the purposes of the Minister satisfying himself or herself of the matter referred to in subsection (5), the Minister shall consult with the Qualifications and Quality Assurance Authority of Ireland.”.
15.	Building Control Act 2007	Section 29	Substitute the following subsection for subsection (5):  “(5) For the purposes of the Minister satisfying himself or herself of the matter referred to in subsection (4), the Minister shall consult with the Qualifications and Quality Assurance Authority of Ireland.”.
16.	Building Control Act 2007	Section 43	Substitute the following subsection for subsection (5):  “(5) For the purposes of the Minister satisfying himself or herself of the matter referred to in subsection (4), the Minister shall consult with the Qualifications and Quality Assurance Authority of Ireland.”.



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**AN BILLE UM CHÁILÍOCHTAÍ AGUS DEARBHÚ  
CÁILÍOCHTA (OIDEACHAS AGUS OILIÚINT), 2011  
QUALIFICATIONS AND QUALITY ASSURANCE  
(EDUCATION AND TRAINING) BILL 2011**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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

*Purpose of Bill*

The Bill is, by its long title, an Act to provide for the establishment of a body known in the Irish language as Údarás na hÉireann um Cháilíochtaí agus Dearbhú Cáilíochta or in the English language the Qualifications and Quality Assurance Authority of Ireland; to define its functions; to provide for the dissolution of the National Qualifications Authority of Ireland, the Higher Education and Training Awards Council and the Further Education and Training Awards Council; to repeal the Qualifications (Education and Training) Act 1999; to amend the Higher Education Authority Act 1971, the Regional Technical Colleges Act 1992, the Freedom of Information Act 1997, the Universities Act 1997 and certain other Acts; and to provide for matters connected therewith.

*Provisions of Bill*

The Bill has 80 sections divided into 10 Parts.

**PART 1**

**Preliminary and General**

*Section 1 — Short title and commencement* provides for the short title of the Bill and for its commencement on the day or days that the Minister by order appoints.

*Section 2 — Interpretation* defines certain expressions used in the Bill.

*Section 3 — Regulations* contains standard provisions relating to the making of regulations by the Minister.

*Section 4 — Expenses* provides that expenses incurred by the Minister in administering the Act will be paid out of money provided

by the Oireachtas, as sanctioned by the Minister for Public Expenditure and Reform.

*Section 5 — Offences* provides for matters relating to offences under the Act. It provides that a person who commits an offence under *section 77(6)* or *paragraph 13(2)* of *Schedule 1* shall be liable on summary conviction to a class A fine and that a person guilty of any other offence under the Act shall be liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 5 years or both.

*Section 6 — Repeals and revocations* provides for the repeal of Acts set out in *Schedule 2* to the extent specified in the Schedule, and for the revocation of statutory instruments set out in *Schedule 2*.

## **PART 2**

### **Qualifications and Quality Assurance Authority of Ireland**

*Section 7 — Establishment Day* provides that the Minister will by order appoint a day as the day when the Qualifications and Quality Assurance Authority of Ireland (“the Authority”) is to be established.

*Section 8 — Establishment of Qualifications and Quality Assurance Authority of Ireland* establishes the Authority as a statutory body on the establishment day to perform the functions assigned to it by this Act. It also provides that the Minister may, following consultation with the Authority, by order specify a name other than the Qualifications and Quality Assurance Authority of Ireland by which the Authority may describe itself, and that the provisions set out in *Schedule 1* shall have effect in relation to the Authority.

*Section 9 — Functions of Authority* sets out the general functions of the Authority as follows:

- (a) to promote, maintain, further develop and implement the Framework,
- (b) to formulate national policy on quality assurance and enhancement in education and training,
- (c) to review and monitor the effectiveness of providers’ quality assurance procedures,
- (d) to validate programmes of education and training, and review and monitor the validated programmes,
- (e) to establish the standards of knowledge, skill or competence to be acquired by learners before an award can be made by the Authority or by a provider to which authority to make an award has been delegated,
- (f) to make awards, delegate authority to make an award where it considers it appropriate and review and monitor the operation of the authority so delegated,

- (g) to determine policies and criteria for access, transfer and progression in relation to learners, and monitor the implementation of procedures for access, transfer and progression in relation to learners by providers,
- (h) to establish a code of practice for the provision of programmes of education and training to international learners,
- (i) to authorise the use of the international education mark by a provider that complies with the code,
- (j) to establish, maintain and develop a database providing information on awards recognised within the Framework, programmes of education and training which lead to awards recognised within the Framework and such other programmes as the Authority thinks appropriate,
- (k) to establish and maintain a register,
- (l) to advise and consult with the Minister, or any other Minister, on any matter which relates to its functions, at that Minister's request,
- (m) to cooperate with international bodies on qualifications and quality assurance policies and their implementation and in particular to—
  - (i) liaise with awarding bodies outside the State for the purposes of facilitating the recognition in the State of awards of those bodies, and
  - (ii) facilitate the recognition outside the State of awards made in the State,
- (n) to promote the awards of the Authority,
- (o) to ensure arrangements for the protection of learners are in place where learners have begun but not completed a programme of education and training where a provider ceases to provide the programme before completion,
- (p) to assist enrolled learners in finding alternative programmes of education and training where providers cease to provide a programme before completion, and
- (q) to collect any information relating to the performance of its functions it considers appropriate.

It also provides that the Authority, in the performance of its functions, shall inform itself of certain matters and practices, promote certain practices, have regard to policies relating to education and training and consult with certain stakeholders.

In addition, the Authority shall have all such powers as are necessary or expedient for the performance of its functions, shall, subject to this Act, be independent in the performance of its functions, may perform any of its functions through or by any member of staff of the Authority and shall furnish the Minister with such information regarding the performance of its functions as the Minister may from time to time request.

*Section 10 — Reviews by Authority* provides that the Authority can carry out more than one review relating to a provider at the same time.

*Section 11 — Review of Authority by Minister* provides that the Minister may from time to time review the performance by the Authority of its functions, publish the results of a review and make such recommendations as the Minister thinks fit.

*Section 12 — Cooperation with Authority* provides that—

- (a) relevant providers, as defined in the Act, shall facilitate and assist the Authority in the performance of its functions, in so far as those functions relate to the functions of the relevant provider, and
- (b) professional recognition bodies, as defined in the Act, shall, in so far as is practicable, cooperate with the Authority in the performance of its functions and consult with the Authority in regard to the performance of its functions, in so far as those functions relate to the functions of the body.

In addition, it provides that relevant providers and professional recognition bodies shall provide such information as the Authority requires for the performance of its functions in so far as those functions relate to the functions of the provider or body concerned.

*Section 13 — Directions of Authority as to provision of information* enables the Authority to make a direction in writing, which a relevant provider or professional recognition body shall comply with, requiring that provider or body to provide information to the Authority where it has failed to do so following a request under *section 12*.

*Section 14 — Chief executive* provides for the appointment of the chief executive of the Authority and sets out the conditions of that appointment. The Authority shall, with the approval of the Minister and the Minister for Public Expenditure and Reform, set the terms and conditions of the chief executive's employment. It also provides that the Minister may, before the establishment day, designate a person to be the first chief executive, and the Authority shall appoint that person to be the chief executive.

*Section 15 — Functions of chief executive* provides that the chief executive shall manage the administration of the Authority and perform other functions determined by the Authority, that the chief executive is accountable to the Authority and may make proposals to the Authority, shall provide such information to the Authority as the Authority shall require and also provides for the delegation by the Authority of the functions of the chief executive.

*Section 16 — Delegation of functions of chief executive* is a standard provision which provides for the delegation by the chief executive of the functions of the chief executive.

*Section 17 — Accountability of the chief executive to Public Accounts Committee* is a standard provision which provides for the giving, by the chief executive, of evidence to the Public Accounts Committee.

*Section 18 — Accountability of the chief executive to other Oireachtas Committees* is a standard provision which provides for matters relating to the attendance of the chief executive before a committee of the Oireachtas to give account for the general administration of the Authority.

*Section 19 — Staff* provides for the appointment by the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, of staff who shall be subject to such terms and conditions, and shall be paid such remuneration, as shall be determined by the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform.

*Section 20 — Transfer of staff of dissolved body to Authority* provides for the transfer on the establishment day of existing staff of a dissolved body to the Authority on conditions in relation to remuneration which are no less beneficial than those they were subject to immediately before the establishment day.

*Section 21 — Superannuation* is a standard provision which requires the Authority to establish a superannuation scheme or schemes for granting superannuation benefits to or in respect of members of its staff and provides for matters relating to the pension rights of members of staff who transferred to the Authority from a dissolved body.

*Section 22 — Accounts* is a standard provision relating to the keeping of accounts by the Authority, the submission of those accounts to the Comptroller and Auditor General, the presentation of audited accounts and the report of the Comptroller and Auditor General to the Minister and the laying of those accounts and that report before each House of the Oireachtas.

*Section 23 — Strategy statement* provides for the preparation by the Authority of strategy statements specifying strategies for achieving the objectives of the Authority and the uses to which the Authority proposes to apply its resources over the following three year period. It also provides that such statements shall be published and provided to the Minister.

*Section 24 — Annual Report* is a standard provision relating to the preparation by the Authority of an annual report on its activities, the laying of those reports before each House of the Oireachtas and the publication of those reports on the internet.

*Section 25 — Gifts to Authority* is a standard provision relating to the acceptance of gifts by the Authority with the consent of the Minister and the Minister for Public Expenditure and Reform, prohibiting the Authority from accepting a gift where if the trust or condition attached to it is inconsistent with or likely to prejudice the Authority's operational independence or the effective performance of its functions, and requiring the Authority to include details of any gift that exceeds an amount specified by the Minister in its next annual report.

### **PART 3**

#### **Quality Assurance**

*Section 26 — Quality assurance* provides that the Authority shall issue guidelines for the establishment of quality assurance procedures by relevant and linked providers, and establish

procedures for the review by the Authority of the effectiveness of quality assurance procedures established by relevant providers and the implementation of those procedures by relevant providers. It requires the Authority to consult with providers, and with the Higher Education Authority where appropriate, and it also enables the Authority to establish and publish different guidelines and procedures for different providers or groups of providers.

*Section 27 — Obligation of providers to establish quality assurance procedures* requires relevant and linked providers to establish quality assurance procedures and sets out matters which must be addressed in those procedures, including—

- (a) procedures for evaluation of education, training, research and related services,
- (b) procedures for the review of the application of quality assurance procedures,
- (c) preparation of a report,
- (d) furnishing of the report to the Authority and publication of that report,
- (e) implementation of measures the provider considers necessary arising out of a review, and
- (f) the requirement for an evaluation to take place not less than once in every 7 years.

*Section 28 — Quality assurance procedures and previously established universities* provides that a previously established university shall consult with the Authority before establishing quality assurance procedures, provide a copy of the procedures established by it to the Authority, and publish and implement those procedures.

*Section 29 — Quality assurance procedures and relevant providers, other than previously established universities* requires relevant providers other than previously established universities to submit draft quality assurance procedures to the Authority for approval (accompanied by such fee (if any) as may be determined by the Authority under *section 74*) and provides that the Authority may, having consulted with the NUI where appropriate, approve those procedures, make recommendations to the provider which the provider shall take account of, or refuse to approve those procedures. Where the Authority approves procedures the provider concerned shall publish those procedures, provide a copy of the published procedures to the Authority and implement those procedures. It also stipulates that a provider who falsely claims or represents that quality assurance procedures have been approved by the Authority will be guilty of an offence.

*Section 30 — Refusal by Authority to approve quality assurance procedures* provides that the Authority, where it considers that it should refuse to approve procedures, shall notify the provider concerned of the proposed refusal, that the provider concerned may make representations within one month and that, having considered any representations received, the Authority may refuse to approve procedures. It also provides that the provider concerned can appeal against the refusal to the Appeals Panel.

*Section 31 — Quality assurance procedures and designated awarding bodies* provides for a designated awarding body's procedures to include procedures for the review by that body of the effectiveness of the procedures established by a linked provider for which the body makes an award in respect of a programme of education and training, and the implementation by the linked provider of those procedures.

*Section 32 — Quality assurance procedures and linked providers* requires linked providers to submit draft quality assurance procedures to the relevant designated awarding body for approval and provides that the designated awarding body may approve those procedures, make recommendations to the linked provider which the linked provider shall take account of, or refuse to approve those procedures. It also provides that linked providers shall implement those procedures.

*Section 33 — Review by Authority of quality assurance procedures of relevant providers* provides that the Authority shall, at least every 7 years, review the effectiveness of quality assurance procedures established by a relevant provider, and the implementation by the provider of those procedures, and that the Authority shall carry out such a review in accordance with the procedures established by it and in consultation with the HEA or the NUI where appropriate. In addition it provides that the Authority shall prepare a report on such a review, shall provide a copy of the report to the provider concerned, may make amendments to the report having considered any observations received from that provider, and shall publish the final report, including those observations. A provider subject to a review shall pay to the Authority within one month of the completion of that review such fee as may be determined by the Authority under *section 74*.

*Section 34 — Directions of Authority following review* provides that the Authority may, following a review carried out under *section 33* and having consulted with the provider concerned, issue directions to the provider which the provider shall comply with. It also states that a provider must provide information to the Authority regarding the compliance of the provider with those directions when requested by the Authority to do so.

*Section 35 — Withdrawal by Authority of approval of quality assurance procedures* sets out matters relating to the withdrawal by the Authority of approval of a relevant provider's quality assurance procedures, where the Authority considers that directions issued under *section 34* have not been complied with or there are serious deficiencies in the implementation by the provider of its procedures, and provides that such a withdrawal can be appealed to the Appeals Panel. It also provides that where approval is withdrawn, the Authority shall also withdraw validation of any programmes provided by the provider which the Authority has validated and any authority to make awards delegated to the provider concerned.

*Section 36 — Review by designated awarding bodies of quality assurance procedures of linked providers* provides that each designated awarding body shall, at least every 7 years, review the effectiveness of quality assurance procedures established by their linked providers, and the implementation by those providers of those procedures, that each designated awarding body shall carry out such a review in accordance with the procedures established by them and that they may request the assistance of the Authority in carrying out such reviews. In addition it provides that each designated awarding body shall prepare a report on such a review, shall provide a copy of



the report to the linked provider concerned, may make amendments to the report having considered any observations received from that linked provider, and shall publish the final report, including those observations.

*Section 37 — Quality reviews by Authority* provides that the Authority may conduct reviews of the quality of education, training, research and related services provided by relevant providers or classes of relevant providers, shall consult with the Higher Education Authority where the review concerns one or more providers funded by that body and shall publish the findings of such a review.

## **PART 4**

### **Standards and Awards**

*Section 38 — Framework of qualifications* provides that the National Framework of Qualifications established and maintained by the NQAI shall continue in being, sets out the Authority's functions in relation to the Framework, states that the Authority will promote and facilitate the use by providers and awarding bodies of learning outcomes and provides that the Authority shall amend the Framework from time to time as it considers necessary. It provides that awarding bodies in the State shall ensure, in so far as is reasonably practicable, that their awards are recognised within the Framework, and requires awarding bodies and providers to ensure that learners have acquired the required standard of knowledge, skill or competence before an award is made.

*Section 39 — Application for validation of programme of education and training* provides that the Authority shall establish and publish policies and criteria for the validation of programmes of education and training and shall review those policies and criteria not less than once in every 5 years. It provides that a provider of a programme of education and training may apply to the Authority for validation of the programme (and that such application shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*) and shall be subject to certain conditions relating to quality assurance, access, transfer and progression, protection of enrolled learners and consultation with partner providers. It sets out those providers, including Institutes of Technology, FÁS, Fáilte Ireland, Teageasc, An Bord Iascaigh Mhara, institutions established and maintained by a VEC and recognised schools, who are required to apply for validation unless the programme is not intended to lead to an award, the programme is part of primary or post-primary education, the provider has delegated authority to make that award or the provider has, in accordance with *section 43* entered an arrangement with an awarding body other than the Authority.

*Section 40 — Determination of application for validation of programme of education and training* provides that the Authority may validate a programme where it satisfies the criteria established by the Authority, or refuse to validate the programme. Validation is subject to conditions including that the provider will assist the Authority in the performance of its functions, in so far as those functions relate to the functions of the provider, will establish fair and consistent assessment procedures, implement procedures for access, transfer and progression, comply with requirements relating to the protection of learners, where applicable, provide information to the Authority, and any other conditions the Authority thinks it appropriate to impose. It also allows providers to appeal a refusal to validate a programme to the Appeals Panel and provides that a

provider is guilty of an offence where they falsely claim that a programme has been validated by the Authority.

*Section 41 — Review of programme validation* provides that the Authority may, at any time, review a programme of education and training which it has validated and a provider subject to a review shall pay to the Authority within one month of the completion of that review such fee as may be determined by the Authority under *section 74*.

*Section 42 — Withdrawal of programme validation* provides that, following a review, the Authority shall notify a provider that it proposes to withdraw validation of a programme where it considers that the programme no longer meets the criteria established by the Authority, that a relevant condition is not being complied with or that there are other reasonable grounds for withdrawing validation. It also states that a provider may make representations to the Authority regarding a proposed withdrawal, that after considering any such representations the Authority may withdraw validation of a programme where any of the reasons set out above continue to apply, and that the provider concerned can appeal such a withdrawal to the Appeals Panel.

*Section 43 — Arrangement between providers and awarding bodies other than the Authority* provides that those providers listed in *section 39* may enter into an awarding arrangement with an awarding body other than the Authority, on condition that the award concerned is recognised within the Framework, and requires providers to notify the Authority of such an arrangement prior to entering into the arrangement.

*Section 44 — Authority to determine standards of knowledge, skill or competence for awards* provides that the Authority shall, having regard to the Framework, determine standards of knowledge, skill or competence to be acquired by a learner before an award can be made, that the Authority may amend those standards at any time and that the Authority shall publish those standards.

*Section 45 — Making of awards* provides that the Authority shall establish and publish policies and criteria for the making of awards by the Authority and by providers to whom authority to make an award has been delegated, and that the Authority shall review those policies and criteria at least every 5 years. It also provides that the Authority shall, on the application of (i) a learner or (ii) a provider in respect of an enrolled learner, make an award where the Authority is of the opinion that the learner has acquired the standard determined by the Authority under *section 44*. In addition, it provides for an offence where a provider falsely claims that a programme leads to an award of the Authority.

*Section 46 — Request by provider for delegation of authority to make award* provides that the Authority will establish and publish criteria for the determination of a request for delegation of authority, which shall include criteria relating to the overall operation and management of the provider, and that such a request may be made by an Institute of Technology, FÁS, Fáilte Ireland, Teagasc or a provider fulfilling conditions set out in regulations prescribed by the Minister, subject to certain conditions, including that the provider has established procedures for quality assurance and access, transfer and progression, and has complied with *section 59* in respect of arrangements for the protections of enrolled learners, if applicable. Such requests may be made in respect of either a programme or a class of programme, with a class comprising of programmes leading

to awards recognised up to a particular level of the Framework, or programmes in a particular subject area, and where a provider makes a request in respect of a class of programme the provider shall specify in its request all of its programmes within that class. The regulations to be prescribed by the Minister will set out the conditions which must be met by a provider other than an Institute of Technology, FÁS, Fáilte Ireland, or Teagasc in order for them to be able to make a request, and those conditions shall include that the provider has at least a specified number of programmes validated by the Authority, has at least a specified number of learners enrolled and the provider's programmes have been validated by the Authority for at least a specified period. A request under this section shall be accompanied by such fee (if any) as may be determined by the Authority under *section 74*.

*Section 47 — Determination of request for delegation of authority to make award* provides that the Authority shall evaluate a request for delegation of authority, prepare a report on the evaluation and provide the report to the provider concerned. Having considered any representations received from the provider, the Authority may refuse to delegate authority or, where it is satisfied that the overall operation and management of the provider and the programme or class of programme concerned meet the criteria required, may delegate to the provider authority to make awards in respect of that programme or class of programme and any awards made pursuant to that authority shall be awards of the provider. Delegation of authority is subject to conditions including that the provider will assist the Authority in the performance of its functions in so far as those functions relate to the functions of the provider, will establish fair and consistent assessment procedures, implement procedures for access, transfer and progression, comply with requirements relating to the protection of learners, where applicable, provide information to the Authority, and any other conditions the Authority thinks it appropriate to impose. It also provides that providers, where they propose to make an award in respect of a programme which they consider to come within a class of programme for which they have delegated authority, shall notify the Authority of its proposal, that the Authority may within one month notify the provider that it does not consider the programme to come within such a class of programme and, where the Authority does not make such a notification, the provider may make an award in respect of the programme concerned. Providers may appeal a condition specified by the Authority, or a refusal to delegate authority to make an award, to the Appeals Panel and a provider is guilty of an offence where they falsely claim that they have been delegated authority to make an award.

*Section 48 — Review by Authority of delegated authority to make award* provides that the Authority shall review each programme or class of programme of a provider to which authority has been delegated, and the overall operation and management of that provider, at least every 7 years, and that the Authority shall establish and publish procedures for conducting such reviews. A provider subject to a review shall pay to the Authority within one month of the completion of that review such fee (if any) as may be determined by the Authority under *section 74*.

*Section 49 — Withdrawal or variation by Authority of delegated authority to make award* provides that where the Authority considers that a programme, class of programme or overall operation and management of a provider no longer meet the criteria required, that a condition is not being complied with or that there are other reasonable grounds for withdrawing or varying delegated authority,

the Authority shall notify the provider concerned of its proposal to withdraw or vary that authority. It also states that a provider may make representations to the Authority regarding a proposed withdrawal or variation, that after considering any such representations the Authority may withdraw or vary delegated authority where any of the reasons set out above continue to apply, and that the provider concerned can appeal such a withdrawal or variation to the Appeals Panel.

*Section 50 — Procedures for access, transfer and progression in relation to learners* provides that the Authority shall establish and publish policies and criteria for access, transfer and progression, that each relevant and linked provider shall establish procedures for access, transfer and progression in accordance with those policies and criteria and that those procedures shall include procedures for credit accumulation and transfer and the recognition of prior learning. It also provides that each provider concerned, other than previously established universities, shall submit draft procedures to the Authority for approval (accompanied by such fee (if any) as may be determined by the Authority under *section 74*), and the Authority may approve those procedures, which the provider shall then publish and implement, or may refuse to approve the procedures and make such recommendations as the Authority thinks appropriate, which the provider shall take account of before resubmitting procedures for approval. Previously established universities shall consult with the Authority before establishing procedures, shall provide a copy of their procedures to the Authority and the Authority shall facilitate and advise the previously established universities in implementing those procedures.

*Section 51 — Review by Authority of implementation of procedures for access, transfer and progression* provides that the Authority shall, at least every 7 years, review the implementation of the procedures for access, transfer and progression established by relevant and linked providers, consult with the Higher Education Authority where the provider concerned is funded by that body and publish the outcome of a review.

*Section 52 — Directions of Authority following review* provides that, where the Authority has carried out a review of procedures for access, transfer and progression, the Authority may, following consultation with the relevant provider or linked provider concerned, issue such directions in writing to the provider as the Authority thinks appropriate. A provider must comply with a direction. A provider shall provide the Authority with information from time to time and when requested to do so by the Authority regarding the compliance by the provider with a direction.

*Section 53 — Withdrawal by Authority of approval of access, transfer and progression procedures* provides for the Authority to withdraw approval of a provider's procedures for access, transfer and progression (except those of previously established universities) in cases where the Authority considers that directions have not been complied with or there are serious deficiencies in the implementation of procedures by a provider. The provider may appeal against the withdrawal of approval. If the Authority withdraws approval, then the Authority shall also withdraw validation of any programmes provided by the provider which the Authority has validated and any authority to make awards delegated to the provider concerned.

## PART 5

### Code of Practice and International Education Mark

*Section 54 — Code of Practice for provision of programmes to international learners* provides that the Authority shall, following consultation with the Higher Education Authority, Fáilte Ireland and such other stakeholders as it considers appropriate, establish and publish a code of practice for the provision of education to international learners in the State, and that the code may contain different provisions for different providers or groups of providers. It also provides that the code will include provisions relating to—

- (a) provision of information to enrolled learners,
- (b) provision of orientation and induction programmes,
- (c) processes for enrolment of learners,
- (d) protection of enrolled learners,
- (e) accommodation,
- (f) services for the support and welfare of enrolled learners,
- (g) quality assurance,
- (h) requirements that programmes that lead to awards capable of recognition within the Framework are so recognised,
- (i) management of the academic progression of enrolled learners, the continued enrolment of enrolled learners and completion rates,
- (j) academic management of providers,
- (k) qualifications of the teaching staff,
- (l) management and administration of providers,
- (m) procedures for addressing grievances and complaints,
- (n) premises in which programmes are provided,
- (o) marketing activities,
- (p) the collection of fees, and
- (q) requirements in relation to tax compliance.

*Section 55 — International education mark* provides that the Authority shall specify an international education mark, including such words as the Authority decides from time to time, to indicate a provider's compliance with the code of practice, shall be the proprietor of the international education mark and shall have sole power to authorise the use of the international education mark, under the seal of the Authority. A provider can make an application (accompanied by such fee (if any) as may be determined by the Authority under *section 74*) to the Authority for authorisation to use the international education mark, and the Authority shall determine an application by assessing the compliance with the code of practice. Following such assessment the Authority may authorise the use of the international education mark subject to such conditions as it

thinks appropriate or refuse to authorise its use. A provider can appeal against a refusal to authorise the use of the international education mark to the Appeals Panel. It also provides that a provider who uses the international education mark without authorisation or who falsely claims that the Authority has authorised the use by the provider of the international education mark is guilty of an offence and certificates bearing the seal of the Authority shall be admissible as evidence relating to such offences.

*Section 56 — Annual charge for use of international education mark* provides for the payment by each provider authorised to use the international education mark of an annual charge to the Authority, to be prescribed by the Minister having regard to expenditure incurred or reasonably expected to be incurred by the Authority in maintaining and developing the code of practice, promoting the international education mark and maintaining the integrity of the code of practice and international education mark, in particular by ensuring that the international education mark is used only by providers who are authorised to do so. It also provides that the Minister may prescribe different annual charges in respect of different providers or groups of providers having regard to the number of international learners enrolled with a provider and the duration of programmes provided to international learners, but that in any case the annual charge shall not exceed €50,000. The Minister may also provide for exemptions from the charge in different circumstances.

*Section 57 — Review by Authority of provider's compliance with code of practice and provider's use of international education mark* provides that the Authority may at any time, and in the case of providers of education and training in English as a foreign language at least every 3 years, review the compliance with the code of practice of providers authorised to use the international education mark and conditions, if any, attached to that authorisation. It also provides that, where the Authority considers that a provider no longer complies with the code of practice or the conditions referred to above, it shall notify the provider that it proposes to withdraw authorisation to use the international education mark, that a provider may make representations to the Authority regarding a proposed withdrawal, that after considering any such representations the Authority may withdraw authorisation to use the international education mark where any of the reasons set out above continue to apply, and that the provider concerned can appeal such a withdrawal to the Appeals Panel. In carrying out a review, the Authority may have regard to any other review carried out under the Act, where that other review is relevant to the code of practice. A provider subject to a review shall pay to the Authority within one month of the completion of that review such fee (if any) as may be determined by the Authority under *section 74*.

## **PART 6**

### **Protection of Enrolled Learners**

*Section 58 — Interpretation* provides that Part 6 applies only to programmes of education and training of 3 months or longer duration.

*Section 59 — Arrangements by providers for protection of enrolled learners* provides that a relevant provider shall, before applying for programme validation, applying for delegation of authority to make awards or notifying the Authority of a proposal under *section 47(7)*,

put in place arrangements for the protection of enrolled learners who have begun but not completed the programme where the provider ceases to provide the programme for whatever reason, and that a provider shall be taken to cease to provide the programme where the Authority withdraws validation of that programme. It also provides that this requirement shall not apply to certain providers or to a programme in respect of which no moneys are paid by, or on behalf of, an enrolled learner. The arrangements are an agreement between the provider and at least two other providers that a learner may transfer to a similar programme or, where the provider considers, with the agreement of the Authority, that this is not practicable, that the provider has arrangements in place to enable the provider to refund moneys most recently paid in respect of tuition, registration, examination, library and students services fees, and any other fees relating to the provision of education. Relevant providers shall notify the Authority of the arrangements in place before commencing a programme, or of any changes to those arrangements as soon as possible.

*Section 60 — Assistance from Authority to enrolled learners to find alternative programme* provides that the Authority shall make all reasonable efforts to assist learners affected by the cessation of a programme provided by a provider to whom *section 59* applies to find a programme of education and training with another provider, the Authority may request any relevant provider to assist in its reasonable efforts and a relevant provider shall, upon such a request, assist the Authority.

*Section 61 — Obligation on providers to furnish information to enrolled learners* sets out the information which a provider is required to notify an enrolled learner of before commencing a programme of education and training and before accepting any payment from, or on behalf of, an enrolled learner in respect of that programme. It also provides that a provider shall notify enrolled learners of any change in the information notified to the learner within 14 days of becoming aware of that change, and that a provider who fails to provide the required information to an enrolled learner, or notify them of a change in the information, or provides them with false or misleading information, shall be guilty of an offence.

## **PART 7**

### **Appeals**

*Section 62 — Appeals Panel* provides that the Minister shall establish an Appeals Panel and shall appoint at least 10 people with a special interest or expertise in, or knowledge of the functions of, the Authority (other than members of the Authority or staff of the Authority) to be members of the Panel, that members shall hold office for such period, not exceeding 5 years, as the Minister determines, that a member whose term expires will be eligible for reappointment, that a member is entitled to be paid such remuneration etc. as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines, that a member may resign at any time by giving notice in writing to the Minister, and that the Minister shall appoint a chairperson of the Appeals Panel from among the members. It also provides that the Minister may remove a member from office if, in the opinion of the Minister, the member has become incapable through ill-health of effectively performing his or her functions, the member has committed stated misbehaviour, or the removal of the member appears to the Minister to be necessary for the effective performance by the Appeals Panel

of its functions. It sets out the circumstances in which a person may not be appointed to the Appeals Panel, or shall cease to hold office and states that, where a member dies, resigns, ceases to be qualified for office or is removed from office, the Minister may appoint a person to fill the vacancy so occasioned and that person shall hold office for the remainder of the term of office and shall be eligible for reappointment.

*Section 63 — Determination of appeal by Appeals Board* provides that an appeal shall be lodged with the Appeals Panel within the time provided for by procedures, shall state the grounds for appeal, shall be accompanied by the prescribed fee, that, on receipt by the Appeals Panel of the appeal and fee, the chairperson of the Appeals Panel shall appoint an Appeals Board of 3 people from among the members of the Panel to determine the appeal, and that the chairperson of the Appeals Panel shall appoint the chairperson of the Appeals Board from among those 3 people. It also provides that an Appeals Board may refuse to hear an appeal where it is of the opinion that the appeal lodged is not made in good faith or is frivolous or vexatious, that it may hold such hearings as it considers necessary and may adjourn hearings until a date specified, that each party is entitled to be heard at the hearing and present evidence to the Appeals Board, that the Appeals Board will be independent in the performance of its functions and that a decision by a majority of the members of the Appeals Board shall suffice. In determining an appeal, an Appeals Board may affirm the Authority's decision or quash the decision and direct the Authority, for stated reasons, to reconsider its decision, communicate its determination to the provider concerned, the Authority and the Appeals Panel and the Authority shall comply with a direction given to it by an Appeals Board.

*Section 64 — Appeals procedures* provides that procedures for the hearing and determination of appeals shall be prescribed as soon as practicable after the appointment of the Appeals Panel, following consultation with the Appeals Panel and the Authority, that different procedures may be prescribed for appeals under different sections, and that procedures shall specify certain matters.

## **PART 8**

### **Dissolution of Bodies**

*Section 65 — Dissolution of National Qualifications Authority of Ireland, Higher Education and Training Awards Council and Further Education and Training Awards Council* provides for the dissolution of the National Qualifications Authority of Ireland, the Higher Education and Training Awards Council and the Further Education and Training Awards Council and states that a reference to any of those bodies (referred to as “dissolved bodies”), or a reference which is to be construed as a reference to one of those bodies, shall be construed as a reference to the Authority.

*Section 66 — Liability or loss occurring before establishment day* is a standard provision relating to the transfer of legal liabilities, proceedings or settlements from the dissolved bodies to the Authority.

*Section 67 — Transfer of land and other property to Authority* is a standard provision relating to the transfer of land and other property from the dissolved bodies to the Authority.



*Section 68 — Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body* is a standard provision relating to the transfer of rights and liabilities of dissolved bodies, and leases, licences and permissions granted by dissolved bodies, to the Authority.

*Section 69 — Provisions consequent upon transfer of assets and liabilities to Authority* is a standard provision providing that anything commenced by or under the authority of a dissolved body may, in so far as it relates to a function transferred to the Authority, be carried on or completed by the Authority, that any stocks, shares or securities that were standing in the name of a dissolved body shall be transferred into the Authority's name and that a certificate signed by the Minister shall be sufficient evidence of the fact that any property, right or liability has or has not vested in the Authority.

*Section 70 — Records of dissolved bodies* provides that each record of a dissolved body transfers to the Authority.

*Section 71 — Final accounts and final report of dissolved bodies* provides that the Authority shall prepare final accounts for each dissolved body and shall submit the final accounts to the Comptroller and Auditor General for audit within 3 months of the establishment day. It also provides that the Authority shall prepare final reports for each of the dissolved bodies and submit those reports to the Minister within 6 months of the establishment day, that the Minister shall cause copies of those reports to be laid before the Oireachtas, and that the Authority shall publish those reports on the internet after copies are so laid.

## **PART 9**

### **Miscellaneous Provisions**

*Section 72 — Register of providers* provides that the Authority shall establish and maintain a register into which it shall enter certain information in respect of each provider who is authorised to use the international education mark or who has in place arrangements for the protection of learners. It also provides that providers shall inform the Authority where they become aware of a particular entered in the register being incorrect, that the Authority shall alter the register as necessary and that the Authority shall publish the register and make the register available for inspection at all reasonable times by members of the public.

*Section 73 — Database* provides that the Authority shall establish, maintain and develop a database providing certain information relating to awards recognised within the Framework, programmes which lead to such awards, and any other programmes the Authority thinks appropriate. It also provides that providers shall inform the Authority where they become aware of a particular entered in the database being incorrect, that the Authority shall alter the database as necessary and that the Authority shall ensure in so far as is practicable that the contents of the database are accessible to members of the public.

*Section 74 — Fees* provides that the Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine the fees payable in respect of certain activities of the Authority, that the Authority shall determine the time and manner in which the fees are to be paid and that the Authority shall publish the fees on the internet as soon as they have been

determined. It also provides that the Authority may provide for different fees in respect of different classes or descriptions of activities, for exemptions from the payment of fees, for the waiver, remission or refund of fees in specified circumstances, and that the Authority, in providing for different fees, exemptions, waivers, remissions or refunds may have regard to the amount and complexity of work involved in those activities, taking into account the size of the provider concerned. The Authority may provide for the payment of reduced fees having regard to the method of payment, amend fees to take account of any change in the consumer price index and may recover any amount owing or due as a simple contract debt in any court of competent jurisdiction.

*Section 75 — Provider not to be described as “institute of technology” or “regional technical college”* provides that the words “institute of technology” or “regional technical college” shall not, without the approval of the Minister, be used to describe a provider unless that provider was established and described as such before 11 June 2001, and that the Minister may apply to the High Court for an injunction to restrain any person from using those words.

*Section 76 — Charter of Institute of Technology* provides that an Institute of Technology to which authority to make awards has been delegated shall have a charter and that the Minister shall make regulations specifying matters to be included in a charter. In preparing a charter, the governing body of an Institute of Technology shall consult with the Authority, academic council, staff, any recognised union or staff association, any recognised student union or other representative body and any other person which the governing body considers appropriate. It also provides that the governing body shall submit a draft of a charter to the Minister and request that the Minister recognise the charter, that the Minister may, by order, recognise the charter if he or she is satisfied that the charter does not conflict with this Act or the Institutes of Technology Acts 1992 to 2006, that such an order shall be laid before each House of the Oireachtas, that a House may annul the order by resolution passed within 21 days of it being so laid and that the Minister shall consult with the relevant Institute of Technology before revoking an order.

*Section 77 — Service of documents* is a standard provision relating to the service of notices or other documents under this Act.

## **PART 10**

### **Transitional and Savings Provision for Act of 1999, Amendments of Other Acts and Statutory Instruments**

*Section 78 — Transitional and savings provision for Act of 1999* provides for the transition and saving of certain matters as follows—

- (a) quality assurance procedures established by a relevant provider, other than a previously established university, under the Act of 1999, and which are in operation immediately before the commencement of *section 27*, shall be taken to be procedures established under that section;
- (b) quality assurance procedures established by a previously established university under section 35 of the Universities Act 1997, and which are in operation immediately before

the commencement of *section 27*, shall be taken to be procedures established under that section;

- (c) reviews of the effectiveness of quality assurance procedures and the implementation of those procedures under the 1999 Act, or under section 35(4) of the Universities Act 1997, which are in the process of being conducted, shall be taken to be reviews for the purposes of *section 33*;
- (d) programmes validated by FETAC or HETAC under the 1999 Act, and for which validation has not been withdrawn before the commencement of *section 40*, shall be taken to have been validated by the Authority under that section, any conditions which were applied under the Act of 1999 shall be taken to be conditions imposed under *section 40(2)* and the provisions of this Act shall apply accordingly;
- (e) an application for validation which has been made under the 1999 Act, in respect of which no decision has been made at the time of the commencement of *section 39*, shall be taken to be an application for validation under that section and the provisions of this Act shall apply accordingly;
- (f) policies and criteria for the validation of programmes established under section 14 or 23 of the Act of 1999, as the case may be, shall continue to apply to an application under *section 39* until the Authority establishes policies and criteria under that section;
- (g) awards made by FETAC and HETAC before the commencement of *section 45* shall be taken to be an award made by the Authority under that section;
- (h) standards of knowledge, skill or competence determined under section 14 or 23 of the Act of 1999, as the case may be, shall continue to apply before an award may be made by the Authority or by a provider to whom authority to make an award has been delegated, until such time as the Authority determines standards of knowledge, skill or competence under *section 44*;
- (i) policies and criteria for the making of awards established under section 14 or 23 of the Act of 1999, as the case may be, shall continue to apply to the making of an award by the Authority and policies and criteria established under section 23 shall continue to apply to a provider to whom authority to make an award has been delegated under section 29 of the 1999 Act, until such time as the Authority established policies and criteria under *section 45*;
- (j) authority to make an award which has been delegated to a provider under the Act of 1999, and which has not been withdrawn, shall be taken to have been delegated under *section 47* and any conditions referred to in sections 19 or 29 of the Act of 1999 shall be taken to be conditions imposed by the Authority under *section 47(4)*, and the provisions of this Act shall apply accordingly;

- (k) a request for delegation of authority which has been made under the 1999 Act, in respect of which no decision has been made at the time of the commencement of *section 46*, shall be taken to be a request under that section and the provisions of this Act shall apply accordingly;
- (l) criteria determined under sections 19(3) or 29(3) of the Act of 1999, as the case may be, shall apply to a request for delegation of authority under *section 46*, except in so far as those criteria may be inconsistent with this Act, until the Authority establishes criteria under that section;
- (m) providers shall establish policies and criteria for access, transfer and progression in relation to learners in accordance with procedures established by the NQAI under section 8(2)(d) of the Act of 1999 until the Authority establishes procedures under *section 50(2)*;
- (n) a review commenced under sections 20 or 30 of the Act of 1999 but not completed before the commencement of *section 48* shall be taken to be a review for the purposes of that section and the provisions of this Act shall apply accordingly;
- (o) a charter recognised under section 31 of the Act of 1999 that was in force immediately before the commencement of *section 76* shall, in so far as the charter does not conflict with this Act or the Institutes of Technology Acts 1992 to 2006, be taken to be a charter recognised under *section 76* and the provisions of this Act shall apply accordingly.

*Section 79 — Transition for appeals under Act of 1999* provides that, notwithstanding the repeal of sections 17, 20, 27 or 30 of the Act of 1999, an appeal commenced but not determined under those sections shall continue under the Act of 1999 as if those provisions had not been repealed, that the NQAI shall continue in being for the purpose only of determining such an appeal and that FETAC or HETAC shall continue in being for the purpose of performing any function conferred on them in relation to such an appeal. It also provides that a decision of the NQAI shall take effect as if it were a decision of an Appeals Board under *section 63*.

*Section 80 — Amendments of other Acts* provides for the amendment of certain Acts set out in *Schedule 3*.

## SCHEDULE 1

### Qualifications and Quality Assurance Authority of Ireland

*Schedule 1* provides for certain matters relating to the Qualifications and Quality Assurance Authority of Ireland as follows—

- (a) *paragraph 1* of *Schedule 1* is a standard provision providing that the Authority shall be a body corporate with an official seal, which shall have the power to sue and be sued, and judicial notice shall be taken of the seal of the Authority.
- (b) *paragraph 2* of *Schedule 1* provides that the Authority shall have 8 members who shall be appointed by the Minister, with the exception of the chief executive who is an *ex-officio* member, that the Minister shall ensure that members are persons who have experience of, and expertise in relation to, the functions of the Authority, that members shall include at least one person who has international experience of those functions and at least one person who is representative of learners, that the Minister shall endeavour to ensure that there is an equitable balance between men and women, and that the Minister shall appoint a chairperson from among the members, other than the chief executive. It also provides that the term of office of a member, other than the chief executive, shall not exceed five years, that a member whose term expires shall be eligible for reappointment, but that a person who is reappointed shall not hold office for periods the aggregate of which exceeds 10 years and that each member, other than the chief executive, shall act on a part time basis.
- (c) *paragraph 3* of *Schedule 1* provides that a member of the Authority, other than the chief executive, holds office upon such terms and conditions, and shall be paid such allowances or expenses, as may be determined by the Minister, with the consent of the Minister for Public Expenditure and Reform.
- (d) *paragraph 4* of *Schedule 1* provides that a member of the Authority, other than the chief executive, may resign from office by writing to the Minister, that where the chairperson resigns as chairperson he or she shall also cease to be a member of the Authority, that the Minister may remove a member from office if, in the opinion of the Minister, the member has become incapable through ill-health of effectively performing his or her functions, the member has committed stated misbehaviour, or the removal of the member appears to the Minister to be necessary for the effective performance by the Appeals Panel of its functions and it also sets out the standard circumstances in which a person shall cease to be qualified to hold office and shall cease to hold office.
- (e) *paragraph 5* of *Schedule 1* provides that the Minister may appoint a person to fill a casual vacancy which arises if a member, other than the chief executive, dies, resigns, ceases to be qualified for or ceases to hold office or is removed from office for whatever reason, and that

person shall hold office for the remainder of the term of office and shall be eligible for reappointment.

- (f) *paragraph 6 of Schedule 1* provides that the Authority shall hold at least 4 meetings per year, that the Minister shall fix the date, time and place of the first meeting of the Authority, and that the chairperson shall convene a meeting of the Authority when requested to do so by not less than the number of members which constitute a quorum, which is 4 members. It also provides that, at a meeting of the Authority, the chairperson shall be the chairperson of the meeting, unless the chairperson is absent in which case the members present will choose a member to be chairperson of the meeting, that every question shall be determined by a majority of the votes, that the Authority may act notwithstanding one or more vacancies among its members, that the Authority shall regulate its procedure and that the Authority may also hold “electronic meetings”.
- (g) *paragraph 7 of Schedule 1* provides that the Authority may establish committees which shall assist and advise it in relation to the performance of its functions or perform such functions as the Authority may delegate, that the Authority shall, in appointing members of a committee have regard to the qualifications and experience required and to the desirability of there being an appropriate balance between men and women, that the Authority may pay members of a committee such allowances or expenses as the Authority may determine, with the consent of the Minister and the Minister for Public Expenditure and Reform, that the Authority may remove a member of a committee at any time, and that the Authority may appoint a person to be chairperson of a committee. It also provides that the acts of a committee shall be subject to confirmation by the Authority, unless the Authority otherwise determines, that a committee may regulate its procedures, that a committee shall provide the Authority with such information as the Authority may require and that the Authority may dissolve a committee at any time.
- (h) *paragraph 8 of Schedule 1* provides that the Authority may, with the consent of the Minister, delegate one or more of its functions to a committee established by it.
- (i) *paragraph 9 of Schedule 1* is a standard provision relating to the nomination to the Seanad, election to either House of the Oireachtas or election to the European Parliament of a member of the Authority or of a member of the staff of the Authority, and provides that such members of the Authority shall cease to be members of the Authority and that such members of staff of the Authority shall stand seconded from the Authority. It also provides that a person who is entitled to sit in either House of the Oireachtas or who is a representative in the European Parliament shall be disqualified from being a member of the Authority, a member of a committee established by the Authority or a member of staff of the Authority.
- (j) *paragraph 10 of Schedule 1* provides that each member of the Authority must disclose any pecuniary or other beneficial interest he or she has in, and which is material to, a

matter that falls to be considered by the Authority. This section also sets out the procedures to be followed in the event that any member of the Authority (including the Chairperson) has such an interest and provides for related matters.

- (k) *paragraph 11 of Schedule 1* provides that *paragraph 10* shall also apply to members of a committee of the Authority who are not also members of the Authority.
- (l) *paragraph 12 of Schedule 1* provides that each member of staff of the Authority must disclose any pecuniary or other beneficial interest he or she has in, and which is material to, any contract (other than a contract of employment), agreement or arrangement, or proposed contract, agreement or arrangement, to which the Authority is a party and provides that he or she shall take no part in any negotiation or deliberation relating to the matter concerned and shall not influence or make any recommendation relating to that matter. It also provides that where a member of staff contravenes the above the Authority may alter the member's terms and conditions of employment or terminate the member's contract of employment.
- (m) *paragraph 13 of Schedule 1* is a standard provision relating to the disclosure of confidential information (defined as information that is expressed by the Authority to be confidential or proposals of a commercial nature or tenders submitted to the Authority) and provides that a person who obtains such information while performing functions as a member, member of a committee, member of staff, or advisor or consultant to the Authority shall not disclose that information unless authorised by the Authority to so do. It also provides that a person who contravenes this prohibition commits an offence but that nothing shall prevent the disclosure of information in a report of the Authority, by or on behalf of the Authority to the Minister or by a member of the Authority to the Minister.

## **SCHEDULE 2**

### **Part 1**

#### **Acts Repealed**

*Schedule 2 Part 1* provides for the repeal of section 35 of the Universities Act 1997 and of the Qualifications (Education and Training) Act 1999, in its entirety.

### **Part 2**

#### **Statutory Instrument Revoked**

*Schedule 2 Part 2* provides for the revocation of the Qualifications (Education and Training) Act 1999 (Section 31) Regulations 2007 (S.I. No. 571 of 2007).



### **SCHEDULE 3**

#### **Amendments of other Acts**

*Schedule 3* sets out a number of Acts and the amendment of those Acts in accordance with *section 79*.

*Department of Education and Skills,  
July, 2011.*