



Number 25 of 2006

INSTITUTES OF TECHNOLOGY ACT 2006

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Number 25 of 2006

INSTITUTES OF TECHNOLOGY ACT 2006

AN ACT TO AMEND THE REGIONAL TECHNICAL COLLEGES ACTS 1992 TO 2001, TO AMEND THE DUBLIN INSTITUTE OF TECHNOLOGY ACTS 1992 TO 2001, TO AMEND THE HIGHER EDUCATION AUTHORITY ACT 1971, TO AMEND THE UNIVERSITIES ACT 1997, TO AMEND THE QUALIFICATIONS (EDUCATION AND TRAINING) ACT 1999, TO REPEAL SECTIONS 19, 37 AND 38 OF THE VOCATIONAL EDUCATION (AMENDMENT) ACT 2001, AND TO PROVIDE FOR RELATED MATTERS.

[16th July, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Institutes of Technology Act 2006.

Short title,
commencement and
collective citations.

(2) Subject to *subsection (3)*, 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 different provisions.

(3) If, immediately before the expiration of the period of one year from the date of passing of this Act, this Act has not been commenced by an order under this section or any provision or provisions thereof remains or remain to be commenced by such an order (including as respects a particular purpose), this Act or the said provision or provisions shall come into operation (or, in the case of such provision or provisions that remains or remain to be commenced for a particular purpose, shall come into operation for that purpose) upon the expiration of the said period.

(4) The Regional Technical Colleges Acts 1992 to 2001 and *Part 2* may be cited together as the Institutes of Technology Acts 1992 to 2006.

(5) The Dublin Institute of Technology Acts 1992 to 2001 and *Part 3* may be cited together as the Dublin Institute of Technology Acts 1992 to 2006.

(6) The Higher Education Authority Act 1971 and *section 52* may be cited together as the Higher Education Authority Acts 1971 and 2006.

(7) The Universities Act 1997 and *section 53* may be cited together as the Universities Acts 1997 and 2006.

(8) The Qualifications (Education and Training) Act 1999 and *section 54* may be cited together as the Qualifications (Education and Training) Acts 1999 and 2006.

(9) The Vocational Education Acts 1930 to 2001 and *section 55* may be cited together as the Vocational Education Acts 1930 to 2006.

Definitions.

2.—In this Act—

“DIT Act” means the Dublin Institute of Technology Act 1992;

“RTC Act” means the Regional Technical Colleges Act 1992.

PART 2

AMENDMENT OF REGIONAL TECHNICAL COLLEGES ACTS

Amendment of section 2 of RTC Act.

3.—Section 2(1) of the RTC Act is amended—

(a) by inserting, after the definition of “academic council”, the following definition:

“ ‘An tÚdarás’ means An tÚdarás um Ard-Oideachas;”,
and

(b) by substituting the following definition for the definition of “college”:

“ ‘college’ means an institution of higher education declared by paragraph (a) of section 3(1) (as amended by the *Institutes of Technology Act 2006*) to be a college to which this Act applies and, in relation to the Cork Institute of Technology, includes a school of that college declared to be such under paragraph (b) of that subsection;”.

Amendment of section 3 of RTC Act.

4.—Section 3 of the RTC Act is amended—

(a) by substituting the following for subsection (1) (as amended by the Regional Technical Colleges (Amendment) Act 1999):

“(1) (a) Each institution of higher education specified in column (1) of the First Schedule is declared to be a college to which this Act applies and shall, subject to subsection (4), continue to bear, and to be known by, the name in the Irish language or in the English language by which it is referred to in that Schedule.

(b) Coláiste Ealaíne agus Deartha Crawford (Crawford College of Art and Design), Ceol-Scoil Chorcaí (Cork School of Music) and Coláiste Náisiúnta Mara na hÉireann (National Maritime College of Ireland) are declared to be schools of the Cork Institute of Technology and each of them shall continue to bear, and to be known by, the name in the Irish language or in the English language by which it is referred to in this paragraph.

(c) (i) Coláiste Turasóireachta Na Cealla Beaga (Tourism College Killybegs) is declared to be a school of the Letterkenny Institute of Technology and it shall continue to bear, and to be known by, the name in the Irish language or the English language by which it is referred to in this paragraph, or by such other name as the governing body, subject to the consent of the Minister, may determine.

(ii) Every person who, immediately before the commencement of this paragraph, is—

(I) an employee of County Donegal Vocational Education Committee, and

(II) working for the college referred to in subparagraph (i),

shall, on such commencement, become and be a member of the staff of Letterkenny Institute of Technology and shall not, while in the service of that college, receive less remuneration or be subject to less beneficial conditions of service than the remuneration approved by the Minister with the concurrence of the Minister for Finance to which that person was entitled and the conditions of service approved by the Minister to which the person was subject before such commencement.”, and

(b) by deleting subsections (2) (as amended by the Qualifications (Education and Training) Act 1999) and (3).

5.—Section 3A (inserted by the Qualifications (Education and Training) Act 1999) of the RTC Act is repealed. Repeal of section 3A of RTC Act.

6.—Section 5 of the RTC Act is amended— Amendment of section 5 of RTC Act.

(a) in subsection (1)—

(i) in paragraph (c), by substituting “An tÚdarás” for “the Minister”,

(ii) by substituting the following paragraph for paragraph (e):

“(e) in relation to any of the following companies or undertakings and in accordance with the following law, namely—

- (i) a limited liability company in the State — in accordance with the Companies Acts, or
- (ii) a company or undertaking (the liability of members of which is limited) in a state other than the State — in accordance with the law of that state,

to—

- (I) promote and take part in the formation of it,
- (II) acquire, hold or dispose of shares or other interests in its capital, or
- (III) participate in the management or direction of it,

but only if the objects of the company or undertaking include the carrying on of such business, trading or other activities, as the college thinks fit, for the purpose of promoting or assisting in the performance of, or in connection with, the functions of the college;”,

and

(iii) in paragraph (i), by substituting “An tÚdarás” for “the Minister”,

and

(b) by deleting subsection (2).

Academic freedom. 7.—The RTC Act is amended by inserting the following section after section 5:

“Academic freedom.

5A.—(1) A college, in performing its functions, shall have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs.

(2) A member of the academic staff of a college shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the college, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the college, for the exercise of that freedom.”.

8.—The RTC Act is amended by substituting the following section for section 7: Amendment of section 7 of RTC Act.

“Functions of governing bodies.

7.—(1) The functions of the governing body of a college shall be, in pursuance of the functions of the college under section 5 but within the constraints of the college’s budget under section 13—

- (a) to control and administer the land and other property of the college,
- (b) to appoint the Director and such other staff as it thinks necessary for the purposes of the college, and
- (c) to perform such other functions as are conferred on it by this or any other Act.

(2) For the purpose of the appointment of the Director under subsection (1)(b), the governing body shall develop such interview and other procedures as in its opinion will best ensure participation in the selection process by candidates of a high calibre from both within and outside of the college and shall publish such procedures in such manner as it considers appropriate.

(3) A governing body has, subject to this or any other Act, such powers as are necessary for the purposes of performing its functions.

(4) A governing body may, from time to time, appoint such and as many committees, consisting either wholly or partly of members of the governing body, as it thinks necessary to assist it in the performance of its functions and may assign to those committees such of its functions as it thinks fit.

(5) A committee appointed under subsection (4) shall operate in such manner as the governing body may direct and its acts shall be subject to confirmation by the governing body, unless the governing body otherwise directs.

(6) In performing its functions a governing body, or, where appropriate, a committee shall—

- (a) comply with such policy directions as may be issued by the Minister from time to time, including directions relating to the levels and range of programmes offered by the college,
- (b) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions,

- (c) have regard to the attainment of gender balance and equality of opportunity among the students and staff of the college and shall, in particular, promote access to education in the college by economically or socially disadvantaged persons, by persons who have a disability and by persons from sections of society significantly under-represented in the student body,
- (d) ensure as far as it can that the college contributes to the promotion of the economic, cultural and social development of the State and to respect for the diversity of values, beliefs and traditions in Irish society, and
- (e) have regard to the statutory responsibilities of other education providers.”.

Amendment of section 8 of RTC Act.

9.—Section 8(1) of the RTC Act is amended by substituting “An tÚdarás” for “the vocational education committee”.

Amendment of section 9 of RTC Act.

10.—Section 9 of the RTC Act is amended—

(a) by substituting the following subsection for subsection (1):

“(1) A governing body shall from time to time appoint in a whole-time capacity a person to be the chief officer of the college, and that person shall be known as the Director, or by such other title as the governing body, subject to the consent of the Minister, may determine.”,

(b) in subsection (2), by substituting “An tÚdarás” for “the Minister”, and

(c) by substituting the following subsection for subsection (4) (inserted by the Regional Technical Colleges (Amendment) Act 1994):

“(4) Where an office of Director becomes vacant, the governing body, after consultation with An tÚdarás, may appoint a person to perform the functions of the Director until such time as a permanent appointment to that office is made and such interim appointment may be terminated by the governing body at any time.”.

Amendment of section 10 of RTC Act.

11.—Section 10(3)(a) of the RTC Act is amended by deleting “in accordance with the programmes and budget approved annually under section 13 of this Act and”.

Amendment of section 11 of RTC Act.

12.—The RTC Act is amended by substituting the following section for section 11:

“General provisions in relation to staff.

11.—(1) A college may perform such of its functions as the governing body may deem proper through or by any member of its staff.

(2) Subject to section 12, there shall be paid by a college to its staff, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.

(3) The payment of any remuneration, fees, allowances or expenses by a company or undertaking referred to in section 5(1)(e) (as amended by the *Institutes of Technology Act 2006*) to the staff of a college shall be in accordance with arrangements in that behalf entered into between the colleges and An tÚdarás.

(4) The Education Sector Superannuation Scheme (referred to in Article 2 of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001)) shall apply to a college and the members of its staff.”.

13.—The RTC Act is amended by inserting the following section after section 11:

Provisions in relation to certain staff.

“Provisions in relation to certain staff.

11A.—(1) (a) A college may appoint such and so many persons to be members of the staff of the college (in addition to the Director) as, subject to the approval of An tÚdarás given with the concurrence of the Minister and the Minister for Finance, the governing body from time to time thinks proper.

(b) The recruitment and selection of such members of the staff shall be carried out in accordance with procedures that may be determined by the Minister from time to time.

(c) Such procedures shall provide that the selection board shall consist of appropriately qualified persons and shall include the Director of the college or a nominee of the Director.

(2) Subject to section 12, the members of the staff of a college shall be employed on such terms and conditions as the college (subject to the approval of the Minister given with the concurrence of the Minister for Finance) from time to time determines.

(3) A college may suspend or dismiss a member of its staff, but only in accordance with procedures and subject to any conditions determined by the college, following consultations by it with recognised staff associations or trade unions; those procedures and conditions may provide for the delegation of powers relating to suspension or dismissal to the Director.

(4) Subsection (3) shall apply to all members of the staff of a college, except those officers to whom subsections (3) and (4) (inserted by the *Institutes of Technology Act 2006*) of section 12 apply.”.

Amendment of section 12 of RTC Act.

14.—Section 12 of the RTC Act is amended by adding the following subsections after subsection (2):

“(3) Sections 105, 106 and 107 of the Vocational Education Act 1930 and sections 7 and 8 of the Vocational Education (Amendment) Act 1944 shall apply to officers of a college who were appointed before the commencement of this subsection, with the substitution of references to the college for references to the vocational education committee.

(4) (a) A college shall not remove any of its officers to whom this subsection applies from office without the consent of the Minister.

(b) This subsection applies to officers of a college appointed before the commencement of this subsection.”.

Amendment of section 13 of RTC Act.

15.—The RTC Act is amended by substituting the following section for section 13:

“Budgets.

13.—(1) A governing body shall, on or before the first day of March in each financial year or such other date as An tÚdarás may approve (which may be a date before the commencement of the financial year to which the statement relates), prepare and submit to An tÚdarás, in such form and manner as may from time to time be approved by An tÚdarás, a statement of the proposed expenditure and expected income of the college for the financial year.

(2) An tÚdarás shall, having regard to the statement submitted under subsection (1), determine the amount of money to be allocated to the college for the financial year from moneys provided to An tÚdarás pursuant to section 12 of the Higher Education Authority Act 1971, and the amount so allocated, together with the other expected income of the college as agreed with An tÚdarás, shall be the budget of the college for the financial year.

(3) Where the budget of a college has been determined, it shall be a function of the Director, acting on the authority of the governing body, to carry it into effect.

(4) An tÚdarás may at any time, on application made to it by the governing body of a college, increase the amount of money to be allocated to the college from moneys provided to An tÚdarás.

(5) Where the Director of a college is of opinion that—

(a) the actual expenditure in a financial year, or

(b) a proposed course of action,

taking into account any increased allocation under subsection (4), will or is likely to result in expenditure in excess of the budget for that financial year (in this section referred to as a ‘material departure from the budget’), the Director shall so inform the governing body.

(6) Where the governing body, despite being so informed, decides—

(a) in the case of subsection (5)(a), not to decrease its actual expenditure, or

(b) in the case of subsection (5)(b), to continue with its proposed course of action,

the Director, as soon as practicable, shall, unless he or she considers that contrary to his or her foregoing opinion a material departure from the budget will not occur, inform An tÚdarás of the decision of the governing body.

(7) Where, notwithstanding this section, a college incurs expenditure in excess of its budget that is not met from the income of the college other than the money allocated to it by An tÚdarás, that excess shall be a first charge on the budget for the next succeeding financial year.

(8) A college may borrow money by means of a bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or a body of persons.

(9) Borrowing, guaranteeing and underwriting under subsection (8) shall be in accordance with arrangements entered into from time to time between the colleges and An tÚdarás; An tÚdarás shall consult with the Minister and the Minister for Finance before entering into such arrangements.”.

16.—Section 14 of the RTC Act is amended—

Amendment of section 14 of RTC Act.

(a) by substituting the following subsection for subsection (1):

“(1) The governing body of a college shall, as soon as may be, but not later than 3 months, after the end of each academic year, prepare and publish a report of its proceedings during that year in such form as may be determined by An tÚdarás and provide a copy of such report to An tÚdarás and the Minister.”.

(b) in subsection (2), by substituting “An tÚdarás” for “the vocational education committee”, and

(c) by adding the following subsection after subsection (2):

“(3) A college shall supply to An tÚdarás such information as An tÚdarás may from time to time request relating to the number of persons employed by the college, their composition by grade, their terms and conditions of employment (including their remuneration, fees, allowances, expenses and superannuation) and any other related matters.”.

Repeal of section 15 of RTC Act.

17.—Section 15 of the RTC Act is repealed.

Amendment of section 16 of RTC Act.

18.—The RTC Act is amended by substituting the following section for section 16:

“Keeping of accounts and records.

16.—(1) A college shall keep, in such form as may be approved by An tÚdarás, all proper and usual accounts and records of all income received or expenditure incurred by it.

(2) Accounts kept in pursuance of subsection (1) shall, to the extent directed by the Comptroller and Auditor General, be submitted annually by a college to the Comptroller and Auditor General, for audit, by such date as the Comptroller and Auditor General may from time to time determine, and, immediately after the audit, a copy of the accounts, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be presented by the college to An tÚdarás and to the Minister.

(3) The Minister shall cause copies of the accounts presented under this section to the Minister by the college, together with copies of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas.”.

Amendment of section 18 of RTC Act.

19.—Section 18(1) of the RTC Act is amended by deleting “, after consultation with the vocational education committee”.

Amendment of section 20 of RTC Act.

20.—The RTC Act is amended by substituting the following section for section 20:

“Inspection.

20.—The Minister, following consultation with An tÚdarás, may authorise any person or persons as the Minister may deem appropriate to report to the Minister on any matters regarding the operation of a college and such person or persons shall be entitled at all reasonable times to enter the college concerned and shall be afforded every facility by that college, including access to all records, to perform their functions.”.

Amendment of section 21 of RTC Act.

21.—Section 21(4) of the RTC Act is amended by inserting “to whom subsections (3) and (4) (inserted by the *Institutes of Technology Act 2006*) of section 12 apply” after “officers of a college”.

22.—The RTC Act is amended by inserting the following sections after section 21:

Governance of institutes of technology.

“Reserved functions.

21A.—(1) Each college shall perform by resolution of its governing body such of the functions as are declared by this Act to be reserved functions and ‘reserved function’ shall in this Act be construed and have effect accordingly.

(2) The functions under sections 5(1)(a) to (j), 7, 9, 10, 21C, 21D and 21E are declared to be reserved functions.

(3) Any dispute as to whether or not a particular function is a reserved function shall be determined by the Minister.

(4) A Director shall assist the governing body in the performance of its reserved functions, in such manner as the governing body may require.

(5) A governing body shall not perform by resolution of its members, or give a direction in relation to the performance of, a function that is not a reserved function.

Executive functions.

21B.—(1) Every function that is not a reserved function shall be an executive function, and ‘executive function’ shall, in this Act, be construed and have effect accordingly.

(2) Executive functions shall be performed by the Director.

(3) A Director shall provide such information to the governing body regarding the performance of his or her functions as the governing body may from time to time require.

(4) A Director shall provide such information to the Minister or An tÚdarás regarding the performance of his or her functions as the Minister or An tÚdarás, as the case may be, may from time to time require.

Strategic development plan.

21C.—(1) A governing body shall, as soon as practicable but not later than 12 months after the commencement of this section and at such other times as it thinks fit, require the Director to prepare a plan (in this Act referred to as a ‘strategic development plan’) that shall set out the aims of the governing body for the operation and development of the college and its strategy for achieving those aims, and for carrying out the functions under this Act, during the period, being not less than three years, to which the plan relates.

(2) A governing body may either approve the strategic development plan prepared without modification or, after consultation with the Director, approve the plan with such modifications as it

thinks fit; in exercising its powers under this subsection the governing body shall have regard to the resources available to the college.

(3) As soon as practicable after it approves the strategic development plan under subsection (2), the governing body shall provide a copy of the plan to An tUdarás and to the Minister.

Equality policy.

21D.—(1) A governing body shall, as soon as practicable but not later than 12 months after the commencement of this section and at such other times as it thinks fit, require the Director to prepare a statement of the policies of the college in respect of—

- (a) access to education in the college by economically or socially disadvantaged persons, by persons who have a disability and by persons from sections of society significantly under-represented in the student body, and
- (b) equality, including gender equality, in all activities of the college,

and the Director, in preparing the statement, shall have regard to such policies on those matters as may from time to time be determined by the Minister.

(2) A governing body may either approve the statement prepared under subsection (1) without modification or, after consultation with the Director, approve the statement with such modifications as it thinks fit; in exercising its powers under this subsection the governing body shall have regard to the resources available to the college.

(3) A college shall implement the policies set out in the statement as approved under subsection (2).

Dispute resolution.

21E.—(1) A governing body shall establish procedures for the resolution of disputes that arise in the college.

(2) Subsection (1) shall not apply to industrial relations disputes, which shall be dealt with through normal industrial relations structures operating in the college.

(3) Procedures established under subsection (1) shall—

- (a) be embodied in writing,
- (b) be established following consultation with recognised staff associations and trade unions representing the staff of the college and with the students union or other student representative body, and

- (c) provide for consideration of issues in dispute by an independent person or persons, as appropriate.

Reviews. 21F.—An tÚdarás may review—

- (a) the strategic development plan prepared in accordance with section 21C, and
- (b) the policies set out in the statement prepared under section 21D and their implementation by the college,

and may, following consultation with the college, publish a report, in such form and manner as it thinks fit, on the outcome of any such review.”.

23.—The RTC Act is amended by inserting the following section after section 23: Effect of certain orders.

“Effect of certain orders. 23A.—(1) Each order made under section 3 shall, during the relevant period, be deemed always to have been valid.

(2) In this section ‘relevant period’ means the period beginning on the making of the order concerned referred to in subsection (1) and ending on the commencement of *section 4* of the *Institutes of Technology Act 2006.*”.

24.—The RTC Act is amended by substituting the following Schedule for the First Schedule: Amendment of First Schedule to RTC Act.

“Section 3.

FIRST SCHEDULE

THE COLLEGES

Name of College.	Vocational Education Committee in whose functional area the college is situated.
(1)	(2)
Institiúid Teicneolaíochta Bhaile Átha Luain. Athlone Institute of Technology.	County Westmeath.
Institiúid Teicneolaíochta, Baile Bhlainséir. Institute of Technology, Blanchardstown.	County Dublin.
Institiúid Teicneolaíochta, Ceatharlach. Institute of Technology, Carlow.	County Carlow.
Institiúid Teicneolaíochta Chorcaí. Cork Institute of Technology.	City of Cork.

Name of College. (1)	Vocational Education Committee in whose functional area the college is situated. (2)
Institiúid Teicneolaíochta Dhún Dealgan. Dundalk Institute of Technology.	County Louth.
Institiúid Ealaíne, Deartha agus Teicneolaíochta Dhún Laoghaire. Dún Laoghaire Institute of Art, Design and Technology.	Dún Laoghaire.
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo. Galway-Mayo Institute of Technology.	City of Galway.
Institiúid Teicneolaíochta Leitir Ceanainn. Letterkenny Institute of Technology.	County Donegal.
Institiúid Teicneolaíochta Luimnigh. Limerick Institute of Technology.	City of Limerick.
Institiúid Teicneolaíochta, Sligeach. Institute of Technology, Sligo.	County Sligo.
Institiúid Teicneolaíochta, Tamlacht. Institute of Technology, Tallaght.	County Dublin.
Institiúid Teicneolaíochta, Trá Lí. Institute of Technology, Tralee.	County Kerry.
Institiúid Teicneolaíochta Phort Láirge. Waterford Institute of Technology.	City of Waterford.

”.

Amendment of
Second Schedule to
RTC Act.**25.**—The Second Schedule to the RTC Act is amended—

(a) by deleting paragraphs 2(5) and 3(3), and

(b) in paragraph 14(e), by deleting “subject to the approval of the Minister and to such terms and conditions as the Minister may lay down,”.

26.—The RTC Act is amended by substituting the following Schedule for the Third Schedule: Amendment of
Third Schedule to
RTC Act.

“Section 9.

THIRD SCHEDULE

DIRECTOR

1. The Director of a college shall, subject to this Act, manage and direct the carrying on by the college of its academic, administrative, financial, personnel and other activities and for those purposes has such powers as are necessary or expedient.

2. In performing his or her functions the Director shall be subject to such policies as may be determined from time to time by the governing body and shall be answerable to the governing body for the efficient and effective management of the college and for the due performance of his or her functions.

3. (1) A Director may delegate any of his or her functions to another member of the staff of the college, unless they are delegated to the Director subject to the condition that they shall not be delegated further; that other member shall be answerable to the Director for the performance of those functions.

(2) Notwithstanding any such delegation, the Director shall at all times remain answerable to the governing body in respect of the functions so delegated.

4. A Director shall not hold any other office or position without the consent of the governing body.

5. A Director shall be entitled to be a member of, and preside over, any and every committee appointed by the governing body, except where the governing body with the concurrence of An tÚdarás decides otherwise.

6. A Director shall be entitled to be a member of the academic council and, if present, shall preside at all meetings of that council; he or she shall be entitled to be a member of every committee established by that council.

7. Unless he or she resigns, retires or is removed from office, a Director shall hold office for a period of 10 years.

8. A Director shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller

and Auditor General, give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the college is required by this Act to prepare,
- (b) the economy and efficiency of the college in the use of its resources,
- (c) the systems, procedures and practices employed by the college for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the college referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in subparagraph (a), (b) or (c)) that is laid before Dáil Éireann.

9. A Director, if required under paragraph 8 to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

10. From time to time and whenever so requested, a Director shall account for the performance of a college's functions to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to these functions.”.

Amendment of
Regional Technical
Colleges
(Amendment) Act
1994.

27.—The Regional Technical Colleges (Amendment) Act 1994 is amended—

- (a) in section 2(1), by inserting “, following consultation with An tÚdarás,” after “Minister”, where “Minister” firstly occurs in that subsection, and
- (b) in section 4(1), by substituting the following for paragraph (a):
 - “(a) six persons shall be nominated by the vocational education committee, none of whom shall be members of the staff of a college or the Dublin Institute of Technology and at least three of whom shall be members of a local authority;”.

28.—Section 9 of the Regional Technical Colleges (Amendment) Act 1999 is amended—

Amendment of section 9 of Regional Technical Colleges (Amendment) Act 1999.

- (a) in subsection (4), by substituting “Education Sector Superannuation Scheme (referred to in the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001))” for “Local Government (Superannuation) Act 1980”, and
- (b) by deleting subsections (5), (6) and (7).

PART 3

AMENDMENT OF DUBLIN INSTITUTE OF TECHNOLOGY ACTS

29.—Section 2(1) of the DIT Act is amended by inserting, after the definition of “the Academic Council”, the following definition:

Amendment of section 2 of DIT Act.

“ ‘An tÚdarás’ means An tÚdarás um Ard-Oideachas;”.

30.—Section 3 of the DIT Act is amended—

Amendment of section 3 of DIT Act.

- (a) in subsection (1), by substituting “institution of higher education” for “institute of education”, and
- (b) by deleting subsection (3).

31.—Section 5 of the DIT Act is amended—

Amendment of section 5 of DIT Act.

- (a) in subsection (1)—
 - (i) by substituting the following paragraph for paragraph (b):
 - “(b) to confer, grant or give degrees (including postgraduate degrees), diplomas, certificates and other educational awards (including honorary awards);”.
 - (ii) in paragraph (d), by substituting “An tÚdarás” for “the Minister”,
 - (iii) by substituting the following paragraph for paragraph (f):
 - “(f) in relation to any of the following companies or undertakings and in accordance with the following law, namely—
 - (i) a limited liability company in the State — in accordance with the Companies Acts, or
 - (ii) a company or undertaking (the liability of members of which is limited) in a state other than the State — in accordance with the law of that state,

to—

- (I) promote and take part in the formation of it,
- (II) acquire, hold or dispose of shares or other interests in its capital, or
- (III) participate in the management or direction of it,

but only if the objects of the company or undertaking include the carrying on of such business, trading or other activities, as the Institute thinks fit, for the purpose of promoting or assisting in the performance of, or in connection with, the functions of the Institute;”,

and

- (iv) in paragraph (j), by substituting “An tÚdarás” for “the Minister”,
- (b) by deleting subsection (2), and
- (c) in subsection (3), by substituting “Degrees and other awards under subsection (1)(b)” for “Awards under the provisions of subsection (1)(b) or under any function in relation to degrees which may be assigned to the Institute by order made under subsection (2)”.

Academic freedom. **32.**—The DIT Act is amended by inserting the following section after section 5:

“Academic freedom.

5A.—(1) The Institute, in performing its functions, shall have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs.

(2) A member of the academic staff of the Institute shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the Institute, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the Institute, for the exercise of that freedom.”.

Amendment of section 7 of DIT Act.

33.—The DIT Act is amended by substituting the following section for section 7:

“Functions of Governing Body.

7.—(1) The functions of the Governing Body shall be, in pursuance of the functions of the Institute under section 5 but within the constraints of the Institute’s budget under section 14—

- (a) to control and administer the land and other property of the Institute,
- (b) to appoint the President and such other staff as it thinks necessary for the purposes of the Institute, and
- (c) to perform such other functions as are conferred on it by this or any other Act.

(2) For the purpose of the appointment of the President under subsection (1)(b), the Governing Body shall develop such interview and other procedures as in its opinion will best ensure participation in the selection process by candidates of a high calibre from both within and outside of the Institute and shall publish such procedures in such manner as it considers appropriate.

(3) The Governing Body has, subject to this or any other Act, such powers as are necessary for the purposes of performing its functions.

(4) The Governing Body may, from time to time, appoint such and as many committees, consisting either wholly or partly of members of the Governing Body, as it thinks necessary to assist it in the performance of its functions and may assign to those committees such of its functions as it thinks fit.

(5) A committee appointed under subsection (4) shall operate in such manner as the Governing Body may direct and its acts shall be subject to confirmation by the Governing Body, unless the Governing Body otherwise directs.

(6) In performing its functions the Governing Body, or, where appropriate, a committee, shall—

- (a) comply with such policy directions as may be issued by the Minister from time to time, including directions relating to the levels and range of programmes offered by the Institute,
- (b) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions,
- (c) have regard to the attainment of gender balance and equality of opportunity among the students and staff of the Institute and shall, in particular, promote access to education in the Institute by economically or socially disadvantaged persons, by persons who have a disability and by persons from

sections of society significantly under-represented in the student body,

- (d) ensure as far as it can that the Institute contributes to the promotion of the economic, cultural and social development of the State and to respect for the diversity of values, beliefs and traditions in Irish society, and
- (e) have regard to the statutory responsibilities of other education providers.”.

Amendment of section 8 of DIT Act.

34.—Section 8(1) of the DIT Act is amended by substituting “An tÚdarás” for “the Vocational Education Committee”.

Amendment of section 9 of DIT Act.

35.—Section 9 of the DIT Act is amended—

- (a) by substituting the following subsection for subsection (1):

“(1) The Governing Body shall from time to time appoint in a whole-time capacity a person to be the President and Chief Officer of the Institute.”.

- (b) in subsection (2), by substituting “An tÚdarás” for “the Minister”, and

- (c) by substituting the following subsection for subsection (4) (inserted by the Dublin Institute of Technology (Amendment) Act 1994):

“(4) Where the office of President becomes vacant, the Governing Body, after consultation with An tÚdarás, may appoint a person to perform the functions of the President until such time as a permanent appointment to that office is made and such interim appointment may be terminated by the Governing Body at any time.”.

Amendment of section 10 of DIT Act.

36.—Section 10 of the DIT Act is amended—

- (a) in subsection (1), by deleting “, with the approval of the Minister,”, and

- (b) in subsection (2), by substituting “An tÚdarás” for “the Minister”.

Amendment of section 11 of DIT Act.

37.—Section 11(3)(a) of the DIT Act is amended by deleting “in accordance with the programmes and budget approved annually under section 14 of this Act and”.

Amendment of section 12 of DIT Act.

38.—The DIT Act is amended by substituting the following section for section 12:

“General provisions in relation to staff.

12.—(1) The Institute may perform such of its functions as the Governing Body may deem proper through or by any member of its staff.

(2) Subject to section 13, there shall be paid by the Institute to its staff, such remuneration, fees,

allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.

(3) The payment of any remuneration, fees, allowances or expenses by a company or undertaking referred to in section 5(1)(f) (as amended by the *Institutes of Technology Act 2006*) to the staff of the Institute shall be in accordance with arrangements in that behalf entered into between the Institute and An tÚdarás.

(4) The Education Sector Superannuation Scheme (referred to in Article 2 of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001)) shall apply to the Institute and the members of its staff.”.

39.—The DIT Act is amended by inserting the following section after section 12:

Provisions in relation to certain staff.

“Provisions in relation to certain staff.

12A.—(1) (a) The Institute may appoint such and so many persons to be members of the staff of the Institute (in addition to the President and the Directors) as, subject to the approval of An tÚdarás given with the concurrence of the Minister and the Minister for Finance, the Governing Body from time to time thinks proper.

(b) The recruitment and selection of such members of the staff shall be carried out in accordance with procedures that may be determined by the Minister from time to time.

(c) Such procedures shall provide that the selection board shall consist of appropriately qualified persons and shall include the President or a Director of the Institute or a nominee of the President.

(2) Subject to section 13, the members of the staff of the Institute shall be employed on such terms and conditions as the Institute (subject to the approval of the Minister given with the concurrence of the Minister for Finance) from time to time determines.

(3) The Institute may suspend or dismiss a member of its staff, but only in accordance with procedures and subject to any conditions determined by the Institute, following consultations by it with recognised staff associations or trade unions; these procedures or conditions may provide for the delegation of powers relating to suspension or dismissal to the President.

(4) Subsection (3) shall apply to all members of the staff of the Institute, except those officers to whom subsections (3) and (4) (inserted by the *Institutes of Technology Act 2006*) of section 13 apply.”.

Amendment of section 13 of DIT Act.

40.—Section 13 of the DIT Act is amended by adding the following subsections after subsection (2):

“(3) (a) Sections 105, 106 and 107 of the Vocational Education Act 1930 and sections 7 and 8 of the Vocational Education (Amendment) Act 1944 shall apply to officers of the Institute who were appointed before the commencement of this subsection, with the substitution of references to the Institute for references to the vocational education committee.

(b) Notwithstanding section 7(5) of the Vocational Education (Amendment) Act 1944, whenever an officer of the Institute to whom paragraph (a) applies is suspended under this Act the Institute may, if the Governing Body thinks fit, make with the consent of the Minister payments *ex gratia* to the suspended officer in lieu of the remuneration which, but for that suspension, would have been payable to that officer.

(c) Any sum paid under paragraph (b)—

(i) shall be repayable by the officer to the Institute,

(ii) may be deducted from any moneys payable by the Institute to that officer, and

(iii) shall not be reckoned as salary or emolument for the purposes of the Education Sector Superannuation Scheme.

(4) (a) The Institute shall not remove any of its officers to whom this subsection applies from office without the consent of the Minister.

(b) This subsection applies to officers of the Institute appointed before the commencement of this subsection.”.

Amendment of section 14 of DIT Act.

41.—The DIT Act is amended by substituting the following section for section 14:

“Budgets.

14.—(1) The Governing Body shall, on or before the 1st day of March in each financial year or such other date as An tÚdarás may approve (which may be a date before the commencement of the financial year to which the statement relates), prepare and submit to An tÚdarás, in such form and manner as may from time to time be approved by An tÚdarás, a statement of the proposed expenditure and expected income of the Institute for the financial year.

(2) An tÚdarás shall, having regard to the statement submitted under subsection (1), determine the amount of money to be allocated to the Institute for the financial year from moneys provided to An tÚdarás pursuant to section 12 of the Higher Education Authority Act 1971, and the amount so allocated, together with the other expected income of the Institute as agreed with An tÚdarás, shall be the budget of the Institute for the financial year.

(3) When the budget of the Institute has been determined, it shall be a function of the President, acting on the authority of the Governing Body, to carry it into effect.

(4) An tÚdarás may at any time, on application made to it by the Governing Body, increase the amount of money to be allocated to the Institute from moneys provided to An tÚdarás.

(5) Where the President is of opinion that—

(a) the actual expenditure in a financial year, or

(b) a proposed course of action,

taking into account any increased allocation under subsection (4), will or is likely to result in expenditure in excess of the budget for that financial year (in this section referred to as a ‘material departure from the budget’), the President shall so inform the Governing Body.

(6) Where the Governing Body, despite being so informed, decides—

(a) in the case of subsection (5)(a), not to decrease its actual expenditure, or

(b) in the case of subsection (5)(b), to continue with its proposed course of action,

the President, as soon as practicable, shall, unless he or she concludes that contrary to his or her foregoing opinion a material departure from the budget will not occur, inform An tÚdarás of the decision of the Governing Body.

(7) Where, notwithstanding this section, the Institute incurs expenditure in excess of its budget that is not met from the income of the Institute other than the money allocated to it by An tÚdarás, that excess shall be a first charge on the budget for the next succeeding financial year.

(8) The Institute may borrow money by means of bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or a body of persons.

(9) Borrowing, guaranteeing and underwriting under subsection (8) shall be in accordance with arrangements entered into from time to time between the Institute and An tÚdarás; An tÚdarás shall consult with the Minister and the Minister for Finance before entering into such arrangements.”.

Amendment of section 15 of DIT Act.

42.—Section 15 of the DIT Act is amended—

(a) by substituting the following subsection for subsection (1):

“(1) The Governing Body shall, as soon as may be, but not later than 3 months, after the end of each academic year, prepare and publish a report of its proceedings during that year in such form as may be determined by An tÚdarás and provide a copy of such report to An tÚdarás and the Minister.”,

(b) in subsection (2), by substituting “An tÚdarás” for “the Vocational Education Committee”, and

(c) by adding the following subsection after subsection (2):

“(3) The Institute shall supply to An tÚdarás such information as An tÚdarás may from time to time request relating to the number of persons employed by the Institute, their composition by grade, their terms and conditions of employment (including their remuneration, fees, allowances, expenses and superannuation) and any other related matters.”.

Repeal of section 16 of DIT Act.

43.—Section 16 of the DIT Act is repealed.

Amendment of section 17 of DIT Act.

44.—The DIT Act is amended by substituting the following section for section 17:

“Keeping of accounts and records.

17.—(1) The Institute shall keep, in such form as may be approved by An tÚdarás, all proper and usual accounts and records of all income received or expenditure incurred by it.

(2) Accounts kept in pursuance of subsection (1) shall, to the extent directed by the Comptroller and Auditor General, be submitted annually by the Institute to the Comptroller and Auditor General, for audit, by such date as the Comptroller and Auditor General may from time to time determine, and, immediately after the audit, a copy of the accounts, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be presented by the Institute to An tÚdarás and to the Minister.

(3) The Minister shall cause copies of the accounts presented under this section to the Minister by the Institute, together with copies of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas.”.

45.—Section 19(1) of the DIT Act is amended by deleting “, after consultation with the Vocational Education Committee”. Amendment of section 19 of DIT Act.

46.—The DIT Act is amended by substituting the following section for section 21: Amendment of section 21 of DIT Act.

“Inspection. 21.—The Minister, following consultation with An tÚdarás, may authorise any person or persons as the Minister may deem appropriate to report to the Minister on any matters regarding the operation of the Institute and such person or persons shall be entitled at all reasonable times to enter the Institute and shall be afforded every facility by the Institute, including access to all records, to perform their functions.”.

47.—The DIT Act is amended by inserting the following sections after section 21: Governance of Dublin Institute of Technology.

“Reserved functions. 21A.—(1) The Institute shall perform by resolution of the Governing Body such of the functions as are declared by this Act to be reserved functions and ‘reserved function’ shall in this Act be construed and have effect accordingly.

(2) The functions under sections 5(1)(a) to (k), 7, 9, 10, 21C, 21D and 21E are declared to be reserved functions.

(3) Any dispute as to whether or not a particular function is a reserved function shall be determined by the Minister.

(4) The President shall assist the Governing Body in the performance of its reserved functions, in such manner as the Governing Body may require.

(5) The Governing Body shall not perform by resolution of its members, or give a direction in relation to the performance of, a function that is not a reserved function.

Executive functions. 21B.—(1) Every function that is not a reserved function shall be an executive function, and ‘executive function’ shall, in this Act, be construed and have effect accordingly.

(2) Executive functions shall be performed by the President.

(3) The President shall provide such information to the Governing Body regarding the performance of his or her functions as the Governing Body may from time to time require.

(4) The President shall provide such information to the Minister or An tÚdarás regarding the performance of his or her functions as the Minister or An tÚdarás, as the case may be, may from time to time require.

Strategic
development
plan.

21C.—(1) The Governing Body shall, as soon as practicable but not later than 12 months after the commencement of this section and at such other times as it thinks fit, require the President to prepare a plan (in this Act referred to as a ‘strategic development plan’) that shall set out the aims of the Governing Body for the operation and development of the Institute and its strategy for achieving those aims, and for carrying out the functions under this Act, during the period, being not less than three years, to which the plan relates.

(2) The Governing Body may either approve the strategic development plan without modification or, after consultation with the President, approve the plan with such modifications as it thinks fit; in exercising its powers under this subsection the Governing Body shall have regard to the resources available to the Institute.

(3) As soon as practicable after it approves the strategic development plan under subsection (2), the Governing Body shall provide a copy of the plan to An tÚdarás and to the Minister.

Equality
policy.

21D.—(1) The Governing Body shall, as soon as practicable but not later than 12 months after the commencement of this section and at such other times as it thinks fit, require the President to prepare a statement of the policies of the Institute in respect of—

- (a) access to education in the Institute by economically or socially disadvantaged persons, by persons who have a disability and by persons from sections of society significantly under-represented in the student body, and
- (b) equality, including gender equality, in all activities of the Institute,

and the President, in preparing the statement, shall have regard to such policies on those matters as may from time to time be determined by the Minister.

(2) The Governing Body may either approve the statement prepared under subsection (1) without modification or, after consultation with the President, approve the statement with such modifications as it thinks fit; in exercising its powers under this subsection the Governing Body shall have regard to the resources available to the Institute.

(3) The Institute shall implement the policies set out in the statement as approved under subsection (2).

Dispute resolution.

21E.—(1) The Governing Body shall establish procedures for the resolution of disputes that arise in the Institute.

(2) Subsection (1) shall not apply to industrial relations disputes, which shall be dealt with through normal industrial relations structures operating in the Institute.

(3) Procedures established under subsection (1) shall—

- (a) be embodied in writing,
- (b) be established following consultation with recognised staff associations and trade unions representing the staff of the Institute and with the students union or other student representative body, and
- (c) provide for consideration of issues in dispute by an independent person or persons, as appropriate.

Reviews.

21F.—An tÚdarás may review—

- (a) the strategic development plan prepared in accordance with section 21C, and
- (b) the policies set out in the statement prepared under section 21D and their implementation by the Institute,

and may, following consultation with the Institute, publish a report, in such form and manner as it thinks fit, on the outcome of any such review.”.

48.—The DIT Act is amended by inserting the following section after section 23: Effect of certain orders.

“Effect of certain orders.

23A.—(1) Each order made under section 5(2) shall, during the relevant period, be deemed always to have been valid.

(2) In this section ‘relevant period’ means the period beginning on the making of the order concerned referred to in subsection (1) and ending on the commencement of *section 31* of the *Institutes of Technology Act 2006.*”.

49.—The Second Schedule to the DIT Act is amended— Amendment of Second Schedule to DIT Act.

- (a) by deleting paragraphs 2(5) and 3(3), and
- (b) in paragraph 14(e), by deleting “subject to the approval of the Minister and to such terms and conditions as the Minister may lay down.”.

Amendment of
Third Schedule to
DIT Act.

50.—The DIT Act is amended by substituting the following Schedule for the Third Schedule:

“Section 9.

THIRD SCHEDULE

THE PRESIDENT

1. The President shall, subject to this Act, manage and direct the carrying on by the Institute of its academic, administrative, financial, personnel and other activities and for those purposes have such powers as are necessary or expedient.

2. In performing his or her functions the President shall be subject to such policies as may be determined from time to time by the Governing Body and shall be answerable to the Governing Body for the efficient and effective management of the Institute and for the due performance of his or her functions.

3. (1) The President may delegate any of his or her functions to another member of the staff of the Institute, unless they are delegated to the President subject to the condition that they shall not be delegated further; that other member shall be answerable to the President for the performance of those functions.

(2) Notwithstanding any such delegation, the President shall at all times remain answerable to the Governing Body in respect of the functions so delegated.

4. The President shall not hold any other office or position without the consent of the Governing Body.

5. The President shall be entitled to be a member of, and preside over, any and every committee appointed by the Governing Body, except where the Governing Body with the concurrence of An tÚdarás decides otherwise.

6. The President shall be entitled to be a member of the Academic Council and, if present, shall preside at all meetings of that Council; he or she shall be entitled to be a member of every committee established by that Council.

7. Unless he or she resigns, retires or is removed from office, the President shall hold office for a period of 10 years.

8. The President shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Institute is required by this Act to prepare,
- (b) the economy and efficiency of the Institute in the use of its resources,
- (c) the systems, procedures and practices employed by the Institute for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Institute 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 subparagraph (a), (b) or (c)) that is laid before Dáil Éireann.

9. The President, if required under paragraph 8 to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

10. From time to time and whenever so requested, the President shall account for the performance of the Institute's functions to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to these functions.”.

51.—The Dublin Institute of Technology (Amendment) Act 1994 is amended—

Amendment of section 2 of Dublin Institute of Technology (Amendment) Act 1994.

- (a) in section 2(1), by inserting “, following consultation with An tÚdarás,” after “Minister”, where “Minister” firstly occurs in that subsection, and
- (b) in section 4(1), by substituting the following for paragraph (a):

“(a) six persons shall be nominated by the Vocational Education Committee, none of whom shall be members of the staff of a college within the meaning of the *Institute of Technology Acts 1992 to 2006* or the Institute;”.

PART 4

MISCELLANEOUS

Amendment of
Higher Education
Authority Act 1971.

52.—The Higher Education Authority Act 1971 is amended—

(a) in section 1(1), by substituting the following definition for the definition of “institution of higher education”:

“ ‘institution of higher education’ means any of the following:

- (a) a university,
- (b) a college of a university,
- (c) a college to which the *Institutes of Technology Acts 1992 to 2006* apply,
- (d) Dublin Institute of Technology,
- (e) Royal College of Surgeons in Ireland,
- (f) National College of Art and Design,
- (g) Royal Irish Academy,
- (h) such educational institutions as may be designated by order under section 5;”

(b) in section 3—

(i) in paragraph (e), by substituting “education,” for “education.”, and

(ii) by adding after paragraph (e) the following:

“(f) promoting the attainment and maintenance of excellence in learning, teaching and research in higher education.”,

(c) by inserting after section 3 the following:

“Directions of
Minister.

3A.—(1) The Minister may, from time to time, issue policy directions to An tÚdarás in relation to the performance of its functions under this Act in respect of the Dublin Institute of Technology or a college to which the *Institutes of Technology Acts 1992 to 2006* apply.

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

(d) by substituting for section 4 the following:

“General duty
with respect to
national aims.

4.—In performing its functions, An tÚdarás shall have regard to the national aims of maximising the contribution of higher education to social and economic

progress, restoring the Irish language and preserving the national culture, and shall endeavour to promote the attainment of those aims.”,

(e) by substituting for section 5 the following:

“Designation of institutions of higher education.

5.—(1) The Minister may, at any time, appoint a body, the membership of which shall be recommended by An tÚdarás and shall include international experts and national experts, including employees of institutions of higher education to which this Act applies, to advise An tÚdarás on whether, having regard to the objects and functions of institutions of higher education currently in being, an educational institution should be designated as an institution of higher education.

(2) On the advice of the body and the recommendation of An tÚdarás, but subject to subsection (3), the Minister may, by order, provide that the institution shall be designated as an institution of higher education for the purposes of this Act and, on the making of the order, it shall be designated accordingly.

(3) The Minister shall not make an order under subsection (2) unless he or she has first caused to be laid before each House of the Oireachtas a draft of the proposed order and a resolution approving of the draft has been passed by both Houses.”,

(f) by inserting after section 12 the following:

“Payments for persons providing support services.

12A.—(1) An tÚdarás may make payments to a person providing support services for the purpose of enabling or assisting that person to provide such services.

(2) Any such payment shall be made in such manner and subject to such conditions as An tÚdarás thinks fit.

(3) For the purposes of this section ‘a person providing support services’ means a body whose objects include the promotion, development or support of higher education and which the Minister, following consultation with An tÚdarás, designates as a body to whom this section applies.”,

and

(g) in the Schedule—

(i) by substituting for subparagraph (2) of paragraph 4 the following:

“(2) An ordinary member of An tÚdarás shall be appointed for a term not exceeding 5 years and his appointment may be renewed for a further term not exceeding 5 years, but after 2 consecutive terms in office, of whatever length, he shall not be eligible for further appointment until a period of 2 years has elapsed.”,

and

(ii) by inserting after paragraph 23 the following:

“24. The ordinary members of An tÚdarás who held office immediately before the commencement of this paragraph shall cease to hold office upon such commencement, but any such member shall, notwithstanding anything contained in paragraph 4(2) (as substituted by the *Institutes of Technology Act 2006*), be eligible to be reappointed for a term not exceeding 5 years as a member of An tÚdarás.”.

Amendment of
Universities Act
1997.

53.—The Universities Act 1997 is amended—

(a) in section 24—

(i) in subsection (1), by deleting “, and the person so appointed shall be the accounting officer for the university”, and

(ii) by deleting subsection (2), and

(b) in the Fourth Schedule, by adding after paragraph 7 the following:

“8. A chief officer shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

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

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

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

(d) any matter affecting the university 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 subparagraph (a), (b) or (c) that is laid before Dáil Éireann.

9. A chief officer, if required under paragraph 8 to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

10. From time to time and whenever so requested, a chief officer shall account for the performance of the university's functions to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to these functions.”.

54.—The Qualifications (Education and Training) Act 1999 is amended— Amendment of
Qualifications
(Education and
Training) Act 1999.

(a) by deleting subsection (5) of section 50, and

(b) in the Second Schedule, by adding after paragraph 5 the following:

“6. The chief executive of a relevant body shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

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

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

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

(d) any matter affecting the relevant body 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 subparagraph (a), (b) or (c) that is laid before Dáil Éireann.

7. The chief executive of a relevant body, if required under paragraph 6 to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

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[No. 25.] *Institutes of Technology Act 2006.* [2006.]

8. From time to time and whenever so requested, the chief executive of a relevant body shall account for the performance of the relevant body's functions to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to these functions."

Repeal of sections
19, 37 and 38 of
Vocational
Education
(Amendment) Act
2001.

55.—Sections 19, 37 and 38 of the Vocational Education (Amendment) Act 2001 are repealed.