



AN BILLE UM THACAÍOCHT DO MHIC LÉINN 2008
STUDENT SUPPORT BILL 2008

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and commencement.
2. Interpretation.
3. Expenses.
4. Grants to awarding authorities.
5. Regulations.
6. Laying of instruments before Houses of Oireachtas.
7. Repeals and transitional arrangements.
8. Approved institution.
9. Approved course.
10. Awarding authority.
11. Transfer of functions of awarding authority.
12. Student — interpretation.

PART 2

GRANTS

13. Schemes of grants.
14. Regulations regarding applications.
15. Application for and award of grant.
16. Change of circumstances.

[No. 6 of 2008]

17. Appeals to appeals officers.
18. Appeals to Appeals Board.
19. Inquiry officer and inquiry.
20. Offences and penalties.
21. Recovery of debt.
22. Student Grants Appeals Board.
23. Report of Appeals Board.

PART 3

MISCELLANEOUS

24. Processing of personal data.
25. Access plans and equality policy.

SCHEDULE 1

SCHEDULE 2

ACTS REFERRED TO

Adoption Acts 1952 to 1998	
Companies Acts	
Data Protection Acts 1988 and 2003	
Guardianship of Children Acts 1964 to 1997	
Institutes of Technology Act 2006	2006, No. 25
Institutes of Technology Acts 1992 to 2006	
Local Authorities (Higher Education Grants) Act 1968	1968, No. 24
Local Authorities (Higher Education Grants) Act 1978	1978, No. 26
Local Authorities (Higher Education Grants) Act 1992	1992, No. 19
Qualifications (Education and Training) Act 1999	1999, No. 26
Refugee Act 1996	1996, No. 17
Regional Technical Colleges Act 1992	1992, No. 16
Universities Act 1997	1997, No. 24
Vocational Education Act 1930	1930, No. 29



AN BILLE UM THACAÍOCHT DO MHIC LÉINN 2008
STUDENT SUPPORT BILL 2008

BILL

entitled

5 AN ACT TO PROVIDE FOR THE MAKING OF GRANTS IN
CERTAIN CASES BY AWARDING AUTHORITIES TO
ENABLE PERSONS TO ATTEND CERTAIN COURSES
OF HIGHER OR FURTHER EDUCATION, TO ESTAB-
10 LISH THE STUDENT GRANTS APPEALS BOARD, TO
REPEAL THE LOCAL AUTHORITIES (HIGHER EDU-
CATION GRANTS) ACTS 1968 TO 1992 AND TO
PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

15 PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Student Support Act 2008. Short title and commencement.

(2) This Act shall, except in relation to a provision whose commencement is otherwise provided for by this Act, come into operation on such day or days as the Minister may appoint by order or
20 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.

2.—In this Act— Interpretation.

25 “Appeals Board” means the Student Grants Appeals Board established under *section 22*;

“Appeals Officer” means a person appointed pursuant to *section 17(1)*

“applicant” means a student who applies for a grant;

“approved course” has the meaning given to it by *section 9*;

30 “approved institution” has the meaning given to it by *section 8*;

“awarding authority” means—

- (a) a vocational education committee, or
- (b) where *section 11* applies, a person specified in an order made under that section;

“course” means a course of study or training;

“dependant” means a child including a foster child of the student (or, in the case of a dependent student as may be prescribed, a child including a foster child of the student’s parent) who, on a day to be prescribed that is not earlier than 12 months prior to the day on which the student commences a year of study in any year at an approved course at an approved institution, has—

- (a) not attained the age of 16 years, or
- (b) attained the age of 16 years or more, depends on the student, (or, in the case of a dependent student as may be prescribed, the student’s parent) and—
 - (i) is pursuing a full-time course, or
 - (ii) is certified by a registered medical practitioner as being permanently unfit to work by reason of a medical condition;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as amended for the time being;

“grant” means money paid by an awarding authority to a student or to an approved institution on behalf of the student for the purpose of assisting the student to pursue an approved course at the approved institution;

“inquiry officer” means a person appointed pursuant to *section 19*;

“Minister” means the Minister for Education and Science;

“parent” includes a guardian appointed under the Guardianship of Children Acts 1964 to 1997, and, in the case of a child who has been adopted under the Adoption Acts 1952 to 1998 or, where the child has been adopted outside of the State, means the adopter or adopters or the surviving adopter;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“progression” means—

- (a) the process by which learners may progress from year to year within a course following the successful completion of part of the course as required during the previous year, or
- (b) the process by which learners may transfer from one course to another course where the award that may be made on the successful completion of the second mentioned course is of a higher level than the award that may be made on the successful completion of the first mentioned course;

“reckonable income” shall be construed in accordance with *section 13(4)(a)(iv)*;

“spouse” includes, if an applicant is living with another person as husband and wife, the other person with whom the applicant is living;

“student” shall be construed in accordance with *section 12(1)*;

5 “tuition fees” means fees and charges that a student is required to pay in order to participate in and complete a course and includes examination fees, student service charges, registration fees and lecture fees;

“tuition student” has the meaning given to it by *section 12(8)*;

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

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

4.—(1) The Minister shall from time to time advance to the awarding authorities, out of moneys provided by the Oireachtas, such amount or amounts as the Minister may, with the consent of the Minister for Finance, determine for the purposes of expenditure by the awarding authorities in the performance of their functions. Grants to awarding authorities.

20 (2) Where an awarding authority makes an arrangement with a person pursuant to *section 10(2)* then the Minister may advance an amount or amounts referred to in *subsection (1)* to the person in accordance with that subsection. 25

5.—(1) Subject to this Act, the Minister may make regulations prescribing any matter or thing referred to in this Act as prescribed or to be prescribed. Regulations.

30 (2) 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 or for giving effect to this Act.

6.—Every order or regulation under this Act (other than an order under *section 1(2)* or *22(1)*) 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 or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. Laying of instruments before Houses of Oireachtas.

7.—(1) The enactments specified in *column (2)* of *Schedule 1* are repealed. Repeals and transitional arrangements.

45 (2) A person attending a course who was, prior to the commencement of this section, awarded a grant to attend the course pursuant to—

(a) the enactments referred to in *subsection (1)*, or

- (b) schemes administered by a vocational education committee whereby grants were provided to students to assist them in attending courses in higher or further education,

shall, subject to the terms of the enactments or schemes, continue to receive the grant concerned until the person has completed that course and he or she shall not apply for a grant other than the grant of which he or she is in receipt. 5

(3) The enactments referred to in *subsection (1)* and schemes referred to in *subsection (2)(b)* shall continue in force and apply to grants made pursuant to those enactments and schemes before the commencement of this section to the same extent as if this Act had not been passed. 10

Approved institution.

8.—(1) In this Act, “approved institution” means—

- (a) an educational institution to which, pursuant to section 4 of the Universities Act 1997, that Act applies, 15
- (b) an educational institution established under section 3 of the Regional Technical Colleges Act 1992 as a regional technical college to which the Institutes of Technology Acts 1992 to 2006 apply,
- (c) the Dublin Institute of Technology, 20
- (d) an educational institution in the State that receives a grant out of moneys provided by the Oireachtas, pursuant to a scheme administered by the Minister, for the provision of courses of education and training known for the time being as post-leaving certificate courses, 25
- (e) an educational institution that provides higher education and training which is situated in a Member State other than the State and which is financed essentially out of public funds, or
- (f) an educational institution in the State that provides higher education and training and which stands prescribed for the time being pursuant to *subsection (2)*. 30

(2) Where the Minister is satisfied to do so, having—

- (a) regard to any of the matters specified in *subsection (3)*,
- (b) consulted with the Higher Education Authority, and 35
- (c) obtained the consent of the Minister for Finance,

he or she may prescribe an educational institution as being an approved institution for the purposes of this section.

(3) Each of the following are the matters mentioned in *subsection (2)*: 40

- (a) whether the institution receives one or more than one grant out of moneys made available by the Oireachtas and the amount of the grant;

- 5 (b) the policy of the institution in relation to access to education in the institution 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;
- (c) the courses and facilities offered or intended to be offered to students by the institution;
- 10 (d) whether prior to the commencement of this section, the institution was an institution which, in respect of its courses, grants were made available pursuant to a scheme administered by a local authority or a vocational education committee whereby grants were provided to students to assist them in attending those courses;
- 15 (e) whether the institution is established for the principal purposes of higher education, training and research and operated and managed on a basis other than for financial gain;
- 20 (f) the requirement for the development of skills and knowledge in sectors of the economy or employment identified as requiring such development of skills and knowledge following advice received by the Minister from such person who has an interest or expertise in educational matters or the development of skills and knowledge as the Minister considers appropriate to consult for that advice;
- 25 (g) resources available for the provision of student support;
- (h) any other matters which in the opinion of the Minister are proper matters to be taken into account having regard to the objective of enabling persons to attend courses of higher or further education, the need to maintain educational standards and the contribution that the institution is making to higher education in the State.
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9.—(1) In this Act “approved course” means a course which— Approved course.

- (a) is provided by an approved institution,
- 35 (b) requires attendance by a student on a full-time basis, and
- (c) has been prescribed as an approved course.

(2) The following matters or any of them are the matters to which the Minister shall have regard for the purposes of prescribing a course pursuant to *subsection (1)(c)*:

- 40 (a) the nature and level of the qualification to be awarded to the student on the successful completion by him or her of the course;
- (b) whether prior to the commencement of this Act the course was a course in respect of which, pursuant to a scheme administered by a local authority or a vocational education committee, grants were provided to students to assist them in attending the course;
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- (c) the requirement for the development of skills and knowledge in sectors of the economy or employment identified as requiring such development of skills and knowledge following advice received by the Minister from such person who has an interest or expertise in educational matters or the development of skills and knowledge as the Minister considers appropriate to consult for that advice; 5
 - (d) the educational institution which provides the course;
 - (e) the duration of the course; 10
 - (f) whether the course is an undergraduate or postgraduate course;
 - (g) whether publicly funded moneys are being used by that educational institution to provide the course;
 - (h) whether the course leads to a higher education and training award or further education and training award; 15
 - (i) resources available for the provision of student support;
 - (j) the number of hours that a student is required to spend attending the course;
 - (k) whether the course leads to a qualification that is recognised— 20
 - (i) in the case of a qualification awarded following the successful completion of a course at an institution other than an institution mentioned at *section 8(1)(e)*, pursuant to arrangements, procedures and systems that constitute for the time being the framework of qualifications established and maintained pursuant to section 7 of the Qualifications (Education and Training) Act 1999, 25
 - (ii) in the case of a qualification awarded following the successful completion of a course at an institution mentioned at *section 8(1)(e)*— 30
 - (I) if such recognition is provided for by those laws in that manner, in a manner provided for by the laws of that Member State that corresponds to the arrangements, procedures and systems referred to in *subparagraph (i)*, or 35
 - (II) if such recognition is not provided for by those laws in that manner, then otherwise in accordance with the laws of that Member State; 40
 - (l) any other matters which in the opinion of the Minister are proper matters to be taken into account having regard to the objective of enabling persons to attend courses of higher or further education, the need to maintain educational standards and the contribution that provision of the course would make to higher education in the State. 45
- (3) For the purposes of this Act, and subject to *subsection (4)*, postgraduate courses that may be prescribed pursuant to this section shall be postgraduate courses that are provided in the State.

5 (4) Notwithstanding *subsection (3)*, where the Minister is satisfied to do so because he or she considers that it is necessary having regard to any one of the relevant purposes mentioned in *subsection (8)*, then he or she may prescribe postgraduate courses that are provided in Northern Ireland as approved courses.

(5) Where a grant is awarded to attend a postgraduate course prescribed pursuant to *subsection (4)*, the grant awarded may include a grant in respect of tuition fees arising in respect of the course.

10 (6) Where a grant is awarded to attend a postgraduate course prescribed pursuant to *subsection (4)*, then the Minister shall, no less than once a year, conduct a review of the course for the purpose of satisfying himself or herself that it continues to fulfil any one of the relevant purposes mentioned in *subsection (8)* and, if as a result of such review, the Minister is not so satisfied, he or she shall—

15 (a) immediately withdraw the grant, and

(b) as soon as may be, make regulations revoking or otherwise causing the cesser of the regulations that comprise the prescribing of the postgraduate course pursuant to *subsection (4)*.

20 (7) Nothing in *subsection (6)* shall prevent a student who was in receipt of a grant which was withdrawn pursuant to that subsection from continuing, subject to this Act and the scheme of grants pursuant to which the grant was awarded, to receive the grant concerned until he or she has completed the course in respect of which he or she was awarded the grant.

(8) The following are the relevant purposes to which the Minister shall have regard when prescribing postgraduate courses pursuant to *subsection (4)* or conducting a review pursuant to *subsection (6)*:

30 (a) promoting greater tolerance and understanding between the people of the State and Northern Ireland;

(b) promoting the exchange of ideas between the people of the State and Northern Ireland;

(c) promoting a greater understanding of, and respect for, the diversity of cultures on the island of Ireland;

35 (d) promoting greater integration and cooperation between the people of the State and Northern Ireland.

10.—(1) In addition to performing any other functions conferred on it by or under this Act, an awarding authority shall— Awarding authority.

40 (a) assess and review resources required by it for the purposes of performing its functions under this Act,

(b) furnish to the Minister and to any other persons specified in the request any information so specified with respect to applications and how they are processed when requested to do so by the Minister,

45 (c) keep all proper and usual accounts of moneys received by it or expenditure of such moneys incurred by it in relation to student grants,

- (d) carry out an audit of accounts and furnish an auditor's report to the Minister when requested to do so by the Minister,
- (e) review the report of an inquiry officer furnished to it under *section 19(10)* and act as it considers appropriate having regard to its functions under this Act, and 5
- (f) furnish to the Minister any specified information in relation to the institution of proceedings for recovery of debt under *section 21(3)*.

(2) An awarding authority may make and carry out arrangements with any person for the purpose of assisting the awarding authority in the proper discharge of its functions. 10

(3) An awarding authority has all such powers as are necessary for or incidental to the performance of its functions under this Act.

(4) The Minister may from time to time formulate policies and issue directions to an awarding authority as respects grants, and, in performing any functions conferred on it by or under this Act, an awarding authority shall implement those policies and directions. 15

(5) The Minister shall from time to time appoint persons to carry out periodic inspections, reviews and audits in relation to the performance by awarding authorities of their functions under this Act and to furnish a report in relation to such inspections, reviews and audits to the Minister and the persons so appointed shall carry out such inspections and reviews and furnish such reports accordingly. 20

Transfer of functions of awarding authority.

11.—(1) Where, on consideration of a report submitted under *subsection (4)*, the Minister is satisfied that an awarding authority is not performing any one or more of its functions under this Act in an effective manner or has failed to comply with a direction of the Minister, then he or she may, by order, transfer such functions of that awarding authority as may be specified in the order to— 25 30

- (a) another awarding authority, or
- (b) such another person,

as may be specified therein, for the period, not exceeding 2 years, that may be specified therein.

(2) Where the Minister proposes to make an order under *subsection (1)* he or she shall, by notice in writing— 35

- (a) inform the awarding authority concerned of the proposal and of the reasons therefor, and
- (b) invite that awarding authority to make representations concerning the proposal to the Minister, not later than 14 days from the service of the notice, 40

and the Minister, in deciding whether or not to make the order, shall take such representations into consideration.

(3) An order amending an order made pursuant to *subsection (1)* shall not amend the second-mentioned order in such a manner as would result in any function to which the second-mentioned order relates standing transferred for a period exceeding 2 years. 45

5 (4) Where, arising from a report furnished to the Minister pursuant to *section 10(5)*, or otherwise arising, it appears to the Minister to be appropriate to do so, the Minister may from time to time appoint a person to carry out an investigation into the performance by an awarding authority of its functions either generally or with reference to any particular function during such period as the Minister may determine and a person so appointed shall, on completion of such investigation, prepare and submit a report thereon to the Minister.

10 (5) Where a function of an awarding authority stands transferred under this section the awarding authority from whom it stands transferred (in *subsection (6)* referred to as the “original awarding authority”) shall not, during the period that it stands so transferred, perform that function and the performance of that function shall not, during that period, be subject to its direction, control or supervision.

15 (6) The awarding authority (the “first mentioned awarding authority”) or other person to whom a function stands transferred under this section shall provide the original awarding authority with such information relating to the performance by the first mentioned awarding authority or other person, as the case may be, of that function as the Minister directs.

12.—(1) In this Act “student” means a person who is ordinarily resident in the State, who has been accepted to pursue, or is pursuing, an approved course at an approved institution and is— Student — interpretation.

25 (a) a national of—

(i) a Member State,

(ii) a state which is a contracting state to the EEA Agreement,

(iii) the Swiss Confederation,

30 (b) a refugee or other person entitled for the time being to the rights and privileges specified in section 3 of the Refugee Act 1996,

35 (c) a person, pursuant to the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006)—

(i) who the Minister for Justice, Equality and Law Reform has determined is eligible for the time being for subsidiary protection pursuant to Regulation 4 of those Regulations, or

40 (ii) to whom the Minister for Justice, Equality and Law Reform has granted permission for the time being in writing to enter and reside in the State pursuant to Regulation 16 of those Regulations,

45 (d) such family member of a person mentioned in *paragraph (a)* as may be prescribed by the Minister, where he or she is satisfied to do so having considered the matters specified in *subsection (2)*, or

(e) a person to whom *paragraphs (a) to (d)* does not refer who—

- (i) has been granted permission to reside within the State by the Minister for Justice, Equality and Law Reform pursuant to such laws as are for the time being in force, and
- (ii) is a person of a class of persons prescribed by the Minister, with the consent of the Minister for Finance.

(2) The following matters or any of them are the matters to which the Minister shall have regard for the purposes of prescribing a person or class of persons as a family member for the purposes of *subsection (1)(d)*—

- (a) the relationship that the family member has to the person mentioned in *subsection (1)(a)*,
- (b) whether the family member depends on the person mentioned in *subsection (1)(a)*,
- (c) whether the family member has a right of residence in the State by virtue of being the spouse or child of a person mentioned in *subsection (1)(a)*, or
- (d) the need to give full effect in the State to any provision of the treaties governing the European Communities, or an act adopted by an institution of those Communities, relating to the giving of grants to family members of persons mentioned in *subsection (1)(a)*.

(3) The following matters or any of them are the matters to which the Minister shall have regard for the purposes of prescribing a class of persons pursuant to *subsection (1)(e)(ii)*:

- (a) the period for which they have been ordinarily resident in the State;
- (b) the basis on which they were granted permission to reside within the State;
- (c) the conditions pursuant to which they were granted permission to reside within the State;
- (d) the degree of connection that they are likely to have to the State;
- (e) their entitlement to benefits or services provided by a Minister of the Government, a local authority, the Health Service Executive or the holder of any office or a body established—
 - (i) by or under any enactment (other than the Companies Acts), or
 - (ii) under the Companies Acts in pursuance of powers conferred by or under any other enactment,

and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government or a subsidiary of any such body;

(f) whether they have access to education in their state of origin;

(g) resources available for the provision of student support;

5 (h) the need to give full effect in the State to any provision of the treaties governing the European Communities, or an act adopted by an institution of those Communities, relating to the giving of grants to family members of persons mentioned in *subsection (1)(a)*.

10 (4) For the purposes of *subsection (1)*, a student shall be ordinarily resident in the State if the student—

(a) has been resident in the State for at least 3 of the 5 years immediately before the relevant date, or

15 (b) if not so resident, is temporarily resident outside of the State by reason of pursuing a course of study or postgraduate research at a specified educational institution outside of the State but within a Member State, and was resident in the State for at least 3 out of the 5 years immediately before the date on which he or she commenced such course of study or postgraduate research.

20 (5) For the purposes of *subsection (4)*, in the determination by an awarding authority of a question relating to whether a person mentioned in *subsection (6)* is ordinarily resident in the State, the person shall not be entitled to derive any benefit from a period of unlawful presence in the State.

25 (6) The determination of the question referred to in *subsection (5)* shall relate to a person who is neither—

(a) an Irish citizen, nor

30 (b) a person who has established a right to enter and be present in the State under the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006), the European Communities (Aliens) Regulations 1977 (S.I. No. 393 of 1977) or the European Communities (Right of Residence for non-Economically Active Persons) Regulations 1997 (S.I. No. 57 of 1997).

40 (7) In this Act, “tuition student” means a student who may receive a grant in respect of tuition fees, is ordinarily resident in one of the states referred to in *subsection (1)(a)*, has been accepted to pursue and is pursuing an approved course (other than a course known for the time being as a post leaving certificate course) of higher education at an approved institution in the State and to whom *paragraph (a), (b), (c), (d) or (e) of subsection (1)* applies.

45 (8) For the purposes of *subsection (7)*, a tuition student shall be ordinarily resident in one of the states referred to in that paragraph if the student has been resident in any of the states for at least 3 of the 5 years immediately before the relevant date.

(9) For the purposes of *subsections (4) and (8)*, “relevant date” means the date on which a student commences a year of study in any year on an approved course at an approved institution.

PART 2

GRANTS

Schemes of grants.

13.—(1) The Minister, with the consent of the Minister for Finance, may prescribe a scheme or schemes of grants.

(2) A scheme may: 5

(a) specify grants or classes of grants that may be awarded under it;

(b) specify a class or classes of applicants who may include dependent students, independent students, mature students, and tuition students; 10

(c) specify criteria to be considered by an awarding authority in determining whether an applicant is a student of a particular class;

(d) specify criteria to be considered by an awarding authority in determining whether an applicant is eligible for a grant including, 15

(i) conditions to be complied with by an applicant, his or her parents or spouse, as the case may be, in order that the applicant may be eligible for a grant,

(ii) the manner in which the income of an applicant, his or her parents or spouse, as the case may be, shall be determined; 20

(e) specify the amount of moneys to be provided to or on behalf of an applicant in respect of a grant for which he or she is eligible; 25

(f) specify the period of time during which an applicant may receive a grant for which he or she is eligible;

(g) specify the period of time during which moneys shall be made available to fund a class of grants;

(h) provide for the manner in which an application for a grant is to be made and information that may be required pursuant to *section 15(4)* is to be furnished. 30

(3) Without prejudice to the generality of *subsection (2)(a)* or *(b)*, in prescribing a class or classes of applicants, or criteria to be considered in determining whether an applicant is a student of a particular class, the Minister shall have regard to the following matters or any of them namely: 35

(a) the age of the applicant;

(b) his or her family or personal circumstances;

(c) whether he or she has family members who might reasonably be expected to support the applicant; 40

(d) whether he or she has been or is self supporting;

- (e) whether or to what extent he or she has previously been in full-time education or employment;
- (f) previous educational attainment of the applicant;
- (g) any other matters which in the opinion of the Minister are proper matters to be taken into account having regard to the resources available and the objective of enabling persons to attend courses of higher or further education.

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(4) Without prejudice to the generality of *subsection (2)*, criteria that may be specified by the Minister in a scheme as criteria to be considered by an awarding authority in order that it may determine whether an applicant is eligible for a grant, may include, but shall not be limited to—

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(a) as respects income:

(i) income limits which, if an applicant is in receipt of income that exceeds the limit specified, then, he or she is not eligible for a grant;

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(ii) requiring, where the applicant is a dependent student, that the income of the applicant and his or her parents, as appropriate, shall be taken into account in calculating whether the limit specified is exceeded;

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(iii) requiring, where the applicant is an independent student, that the income of the applicant and his or her spouse, as appropriate, shall be taken into account in calculating whether the limit specified is exceeded;

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(iv) the proportion or type of income of an applicant, his or her parents or spouse, as appropriate, to be considered by the awarding authority in calculating whether the limit specified is exceeded (and that proportion or type of income shall be called, in a scheme, “reckonable income”);

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(v) requiring, when specifying income limits, that reckonable income may be taken to include means or a proportion of means of an applicant, his or her parents or spouse, as appropriate;

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(vi) requiring, as a condition of receiving a grant that an applicant is in receipt of a benefit or services provided by a Minister of the Government, a local authority, the Health Service Executive or the holder of any office or a body established—

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(I) by or under any enactment (other than the Companies Acts), or

(II) under the Companies Acts in pursuance of powers conferred by or under any other enactment,

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and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government or a subsidiary of any such body;

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- (b) the number of dependants of the applicant, and, where the applicant is a dependent student, the number of dependants of the person upon whom the applicant depends;
 - (c) whether the applicant is a student in progression;
 - (d) that, prior to the commencement of this section, the applicant was in receipt of a grant which was made available pursuant to a scheme administered by a local authority or a vocational education committee whereby grants were provided to students to assist them in attending a course; 5
 - (e) whether the applicant is already in receipt of or likely to receive funding, an award or stipend other than a grant, for the purposes of assisting him or her in pursuing his or her education; 10
 - (f) whether the applicant is already in receipt of or likely to receive funding from a state other than the State under the law of that state which provides for payments to students that correspond to grants; 15
 - (g) previous academic attainment of the applicant;
 - (h) previous attendance by the applicant on higher or further education courses including, (but not limited to) approved courses; 20
 - (i) whether the applicant is an economically or socially disadvantaged person, a person who has a disability or a person from a section of society that is significantly under represented in the student body; 25
 - (j) whether the applicant wishes to attend a course that has been identified as necessary for the development of skills and knowledge in sectors of the economy or employment identified as requiring such development by such person who has an interest or expertise in educational matters or the development of skills and knowledge as the Minister considers appropriate to consult in that behalf; 30
 - (k) any other criteria recommended to be specified by the Minister pursuant to advice received by the Minister from such person who has an interest or expertise in educational matters as the Minister considers appropriate to consult for that advice; and 35
 - (l) any other criteria which in the opinion of the Minister are proper matters to be taken into account having regard to the resources available and the objective of enabling persons to attend courses of higher or further education. 40
- (5) For the purposes of specifying criteria or providing for matters to be specified or provided for pursuant to *subsections (2), (3) and (4)*, different criteria may be specified or matters provided for by the Minister as respects different classes of grants or applicants. 45

Regulations
regarding
applications.

14.—(1) The Minister, with the consent of the Minister for Finance, shall provide by regulations for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications by students for grants.

(2) Without prejudice to the generality of the foregoing, those regulations may provide for the following matters such as—

(a) the awarding authority to which an application is to be made,

5 (b) dates by which an application is to be made,

(c) in relation to an awarding authority:

10 (i) information to be made available by it to students in relation to applications, entitlements, obligations such as those arising under *section 16(1)* and *(2)*, circumstances where payment of a grant may be stopped, and penalties for offences under this Act,

(ii) the manner in which an application for a grant is processed and decided upon, and

15 (iii) a requirement that the awarding authority is to give written notice of its decisions to applicants concerned within a prescribed period,

and

20 (d) any other matters that appear to the Minister to be necessary or expedient to facilitate the making and processing of grant applications.

15.—(1) An applicant shall apply to an awarding authority for a grant. Application for and award of grant.

(2) An applicant may not apply for, or receive more than one grant at any one time.

25 (3) An applicant shall furnish to the awarding authority the information specified in *subsection (4)* and such other information as the authority may request and shall produce evidence in a form acceptable to the authority to verify any such information, in order that the authority may determine whether or not the applicant is eligible to
30 receive a grant.

(4) (a) Without prejudice to *paragraph (b)*, the information mentioned in *subsection (3)* is the following information in relation to the applicant and, as appropriate, the applicant's spouse and each of the applicant's parents, any dependants of the applicant or any dependants of the person upon whom the applicant depends, namely—

(i) his or her current and previous addresses,

(ii) his or her personal public service number,

(iii) his or her date of birth,

40 (iv) his or her reckonable income,

(v) information in relation to any matters or criteria that may have been prescribed pursuant to *section 13*.

- (b) In addition to the forgoing information the applicant shall furnish to an awarding authority, pursuant to *subsection (3)* information specifying—
 - (i) that class of applicant as may be prescribed to which he or she belongs, 5
 - (ii) his or her marital status,
 - (iii) whether he or she has dependants,
 - (iv) whether he or she is commencing his or her first year of study, is a student in progression or has been accepted by an approved institution to return to that institution, 10
 - (v) the approved course that the applicant attends or intends to attend and in respect of which he or she is applying for a grant,
 - (vi) the approved institution which is providing the course referred to in *subparagraph (v)*. 15

(5) An awarding authority shall determine, having regard to information furnished by an applicant pursuant to this section and to any other information in relation to the applicant as appropriate, whether the applicant is eligible to receive a grant. 20

(6) An awarding authority shall make a grant to an applicant in respect of whom it has determined that he or she is eligible for the grant of such moneys and in respect of such a period of time as may be prescribed in the relevant scheme.

(7) Where the awarding authority determines— 25

- (a) that the applicant is eligible for the grant for which he or she has applied, it shall give notice in writing of the determination to the applicant and arrange to pay the grant, or
- (b) that the applicant is not eligible for a grant, it shall give notice in writing of the determination and the reasons therefor, 30

and shall advise the applicant of his or her right to appeal the determination to an appeals officer.

Change of
circumstances.

16.—(1) Where a student is in receipt of a grant and— 35

- (a) the information furnished by him or her to the awarding authority pursuant to *section 15* is no longer correct due to a change in his or her circumstances or, as appropriate, the circumstances of a person mentioned in *section 15(4)(a)*, or 40
- (b) he or she becomes aware that information furnished by him or her to the awarding authority pursuant to *section 15* was incorrect,

then the student shall immediately inform the awarding authority of the change in circumstances or incorrect information, and furnish 45

such information as the awarding authority considers it appropriate to request from him or her.

5 (2) An awarding authority may at any time seek such information as it considers appropriate from a student who is in receipt of a grant for the purpose of determining whether the student remains eligible for the grant concerned.

(3) An awarding authority may—

10 (a) notwithstanding that it has not yet made a determination of the kind referred to in *subsection (4)* where it considers it appropriate to do so,

(b) where a student does not furnish information sought by it pursuant to *subsection (2)*, or

(c) on receipt of a report of an inquiry officer under *section 19(10)*,

15 cease making payments in respect of a grant.

(4) The awarding authority shall determine, having regard to information furnished under *subsection (1)* or *(2)* or where information has not been furnished as sought under *subsection (2)* and such criteria as have been specified in the relevant scheme of grants, 20 whether the student remains eligible for the grant concerned.

(5) If the awarding authority determines, having regard to information furnished to it under *subsection (1)* or *(2)* or where information has not been furnished as sought under *subsection (2)* or arising out of a report of an inquiry officer under *section 19(10)*, that 25 a student—

(a) does not remain eligible for the grant for which he or she had been eligible but is eligible for another grant, or

30 (b) does not remain eligible for the grant for which he or she had been eligible and is no longer eligible for a grant (and accordingly, determines to revoke the grant for which he or she had been eligible),

it shall immediately give notice in writing of the determination and the reasons therefor and—

35 (i) in the case of *paragraph (a)*, arrange to make payments in respect of the grant for which it determines the student is now eligible, if necessary taking into account moneys paid to or on behalf of the student on foot of the grant for which it determines the student does not remain eligible paid to the student while he or she was so eligible, 40 or

(ii) in the case of *paragraphs (a)* or *(b)*, if it considers it appropriate, request from the student return of moneys paid to or on behalf of the student on foot of the grant for which it determines he or she does not remain eligible, if necessary taking into account moneys paid while the student 45 was so eligible.

(6) When giving notice of the determination under *subsection (5)* to the student the awarding authority shall advise him or her of his or her right to appeal the determination to an appeals officer and

that only payments pursuant to that determination shall be made by the awarding authority to the student pending the outcome of his or her appeal to an appeals officer or the Appeals Board, as the case may be.

Appeals to appeals officers.

17.—(1) An awarding authority may appoint a member of its staff to be an appeals officer for the purposes of this section. 5

(2) Where—

(a) an applicant is dissatisfied with a determination of an awarding authority under *section 15(7)*,

(b) a student is dissatisfied with a determination of an awarding authority under *paragraphs (a) or (b) of section 16(5)* or a request of the authority under *paragraph (ii) of section 16(5)*, 10

then the applicant or student, as the case may be, may, not later than 30 days after receipt of the notice of the determination or request, as the case may be, appeal to the appeals officer against that determination or request. 15

(3) The period referred to in *subsection (2)* may be extended by the appeals officer (at the request in writing of the applicant or student, as the case may be) for a further period not exceeding 30 days if the appeals officer is satisfied that the person has given reasonable cause for the extension. 20

(4) The appeals officer shall determine an appeal under this section within 45 days from the making thereof and such determination may be one either to affirm, vary or set aside the determination or request, as the case may be, of the awarding authority concerned and, as appropriate, give a direction to the awarding authority to comply with his or her determination. 25

(5) The appeals officer shall notify in writing the applicant or student, as the case may be, and the awarding authority of the determination and the reasons therefor. 30

(6) When giving notice to the applicant or student, as the case may be, the appeals officer shall advise him or her of his or her right to appeal the determination to the Appeals Board and that only payments pursuant to that determination may be made by the awarding authority to the applicant or student, as the case may be, pending the outcome of his or her appeal to the Appeals Board. 35

(7) The awarding authority shall comply with a direction given to it under *subsection (4)*.

(8) The appeals officer, in determining an appeal under this section, shall do so in accordance with procedures that may have been prescribed by the Minister for that purpose pursuant to *subsection (9)*. 40

(9) The Minister may prescribe procedures in respect of the determination of an appeal by an appeals officer pursuant to this section and may provide for such matters as— 45

(a) information to be furnished to the officer and by what parties, and

(b) ensuring that the determination is made with a minimum of formality consistent with giving a fair hearing to the person making the appeal.

5 **18.—(1)** Where an applicant is dissatisfied with the determination of an appeals officer under *section 17(4)*, he or she may appeal to the Appeals Board against that determination. Appeals to Appeals Board.

(2) An appeal shall be made not later than 30 days after the notification of the determination of the appeals officer to the applicant.

10 (3) The period mentioned in *subsection (2)* may be extended by the Appeals Board (at the request in writing of the applicant) for a further period not exceeding 30 days if the Appeals Board is satisfied that the person has given reasonable cause for the extension.

15 (4) The Appeals Board shall consider and determine an appeal under this section within 90 days from the making thereof and such determination may be one either to affirm, vary or set aside the determination of the appeals officer concerned and, as appropriate, give a direction to the awarding authority to comply with the determination.

20 (5) The Appeals Board shall notify in writing the applicant or student, as the case may be, and the awarding authority of the determination and the reasons therefor.

(6) The awarding authority shall comply with a direction given to it under *subsection (4)*.

25 **19.—(1)** An awarding authority may appoint a member of its staff or, with the consent of another awarding authority, a member of staff of that other awarding authority to be an inquiry officer for the purposes of investigating whether— Inquiry officer and inquiry.

(a) an offence has been committed under this Act, or

30 (b) there has been such a change in the circumstances of a student that he or she is no longer eligible for his or her grant,

and such appointment may be specified to be for a fixed period.

35 (2) Every inquiry officer appointed under this section shall be furnished with a warrant of appointment and shall, when exercising any power conferred on him or her by this section, if requested by a person affected, produce the warrant of appointment or a copy of it to that person.

(3) An appointment under this section as an inquiry officer shall cease—

40 (a) if the awarding authority revokes the appointment,

(b) if the appointment is for a fixed period, on the expiry of that period, or

(c) if the person appointed ceases to be an officer of the awarding authority.

(4) An inquiry officer may, for the purpose of obtaining any information which may be required in relation to a matter under investigation pursuant to *subsection (1)*, decide to conduct an inquiry, in such manner as he or she shall determine, in relation to the matter concerned. 5

(5) The inquiry officer shall notify the person concerned of the date, time and place of the inquiry, and the notice under this subsection shall be sent by prepaid registered post to the address given by the student to the awarding authority, or the last known address of the person concerned, as the case may be, and shall contain details of the alleged offence or change of circumstances, as the case may be, and shall inform the student or the person concerned of his or her right to appear before the inquiry officer and to be represented at the inquiry by a person of his or her choice. 10

(6) The whole or any part of an inquiry referred to in *subsection (4)* may be conducted otherwise than in public if the inquiry officer considers, having regard to the interests of any student or person concerned, that it is appropriate that the hearing or the part thereof be so conducted. 15

(7) For an inquiry under this section, the inquiry officer has the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action for the purpose of— 20

(a) enforcing the attendance of witnesses and examining them on oath or otherwise, and

(b) compelling the production of documents, 25

and for such purposes a summons signed by the inquiry officer is equivalent to any formal procedure capable of being instituted in an action.

(8) Where a person summoned by the inquiry officer to attend before an inquiry or to produce a document— 30

(a) without good cause, makes default in attending,

(b) fails or refuses to produce a document that is within that person's power to produce, or

(c) refuses to take an oath or refuses to answer a question which the inquiry officer may lawfully ask, 35

that person shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(9) A witness at a hearing under this section has the same immunities and privileges as if he or she were a witness before the High Court. 40

(10) On completion of an inquiry, the inquiry officer shall produce a report embodying his or her findings, including the nature of the offence or change of circumstances, as the case may be, the evidence before him or her, such other matter as he or she thinks fit and his or her opinion respecting whether an offence or change of circumstances, as the case may be, was established and shall furnish that report to the awarding authority. 45

20.—(1) A person who knowingly—

Offences and penalties.

- (a) provides false information to an awarding authority, appeals officer or the Appeals Board, or
- (b) uses a grant otherwise than for the purpose of attending an approved course at an approved institution in respect of which the grant was awarded, or
- (c) abets, counsels or procures another person to commit an offence under *paragraph (a)*, or conspires with another person for the commission of such offence,

10 is guilty of an offence.

(2) A person who is guilty of an offence under this section is liable—

- (a) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both,
- (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(3) Notwithstanding anything else contained in this Act or in regulations or an order made under it, a person is not eligible to apply for a grant at any time during the period of 10 years following the person's being convicted of an offence under this Act.

21.—(1) Where a person, whether or not he or she is a student, has received moneys from an awarding authority that are in respect of a grant that the person is not entitled to receive, the person is liable to repay to the awarding authority on demand a sum not exceeding the amount of money received.

Recovery of debt.

(2) Where the awarding authority pays moneys in respect of a grant to an approved institution, the student on whose behalf they have been paid is deemed to have received the moneys.

(3) All sums due to an awarding authority under this Act shall be recoverable as debts due to the State and may, without prejudice to any other remedy, be recovered by the awarding authority as a debt under statute or simple contract debt in any court of competent jurisdiction.

22.—(1) The Minister shall within 12 months from the commencement of *section 15* by order appoint a day to be the establishment day for the purposes of *subsection (2)*.

Student Grants Appeals Board.

(2) On the establishment day referred to in *subsection (1)*, there shall stand established the Student Grants Appeals Board (in this Act referred to as the "Appeals Board") to consider and determine appeals made pursuant to this Act.

(3) The Appeals Board may sit in divisions of itself to consider appeals.

(4) In considering and determining an appeal under this Act, the Appeals Board shall act in accordance with such procedures as may

be determined from time to time by it with the consent of the Minister, and such procedures shall ensure that proceedings are conducted in a manner consistent with treating all parties in a fair manner.

(5) The Appeals Board shall be independent in the performance of its functions. 5

(6) The Appeals Board shall consist of a chairperson and such number of ordinary members as may be determined by the Minister but which in any case shall not exceed 11 persons.

(7) The chairperson and ordinary members of the Appeals Board shall be appointed by the Minister from among persons who have a special interest or expertise in or knowledge of matters regarding education or administration of schemes of payments. 10

(8) The term of office of the chairperson and the ordinary members of the Appeals Board shall be for such period as shall be determined by the Minister but which period shall not exceed 5 years unless the chairperson or other member sooner dies or retires. 15

(9) No person shall hold office as a chairperson or ordinary member of the Appeals Board for more than 2 consecutive terms of office.

(10) The chairperson or an ordinary member of the Appeals Board may— 20

(a) resign by letter addressed to the Minister,

(b) at any time be removed from office by the Minister if, in the opinion of the Minister, he or she has become incapable through ill-health of effectively performing his or her functions or has committed stated misbehaviour. 25

(11) Where the term of office of a member of the Appeals Board terminates otherwise than by reason of the passage of time, the period of office of the person appointed to fill the vacancy occasioned by that other's ceasing to hold office shall be specified to be the unexpired period of that other's term of office. 30

(12) The chairperson and ordinary members of the Appeals Board shall be paid such fees and allowances for expenses as the Minister, with the consent of the Minister for Finance, may determine. 35

(13) The Minister may furnish such support of an administrative nature to the Appeals Board as in the opinion of the Minister is necessary in order that the Board may properly perform its functions.

Report of Appeals Board.

23.—The Appeals Board shall submit a report of its activities to the Minister at such intervals and in such manner and form, as the Minister directs. 40

PART 3

MISCELLANEOUS

Processing of personal data.

24.—(1) Notwithstanding anything contained in the Data Protection Acts 1988 and 2003 or any other enactment, the data controller 45

of any of the bodies listed in *Schedule 2*, or of a body prescribed for the time being pursuant to *subsection (2)* shall, on being requested to do so by the data controller of a body so listed or prescribed, process personal data kept by him or her, or information extracted from such data, to the data controller of any of the other bodies listed in that Schedule or so prescribed for the time being, if he or she is satisfied that it will be used for a relevant purpose only.

(2) If a body (not being a body listed in *Schedule 2*) keeps personal data that is relevant to any of the functions of an awarding authority, inquiry officer or the Appeals Board and the Minister considers that such supply by it to a body so listed (or already prescribed pursuant to this subsection) will further the attainment of a relevant purpose, then the Minister, following consultation with the Data Protection Commissioner, may prescribe that body for the purposes of *subsection (1)*.

(3) Any processing of personal data for the purposes of *subsection (1)* shall go no further than is reasonably necessary for the attainment of the relevant purpose.

(4) A data controller may refuse a request under *subsection (1)* if he or she is satisfied that it would be unwarranted in any particular case by reason of prejudice to the fundamental rights and freedoms or legitimate interests of the data subject.

(5) In this section—

“data controller” has the meaning assigned to it by the Data Protection Acts 1988 and 2003;

“personal data” has the meaning assigned to it by the Data Protection Acts 1988 and 2003;

“processing” has the meaning assigned to it by the Data Protection Acts 1988 and 2003;

“relevant purpose” means the purpose of—

- (a) obtaining information to determine whether an applicant is eligible for a grant,
- (b) verifying data supplied as part of the application process,
- (c) providing data to assist in an inquiry under *section 19* or the prosecution of an offence under *section 20*,
- (d) assisting in the processing of an application for a grant by a student and assisting in the payment of grants to students, and
- (e) verifying that a student is continuing to attend an approved course at an approved institution.

25.—(1) This section applies to approved institutions operating in the State other than— Access plans and equality policy.

(a) those to which, pursuant to section 4 of the Universities Act 1997, that Act applies,

(b) the Dublin Institute of Technology,

(c) those to which, pursuant to section 3(1) (as amended by the Institutes of Technology Act 2006) of the Regional Technical Colleges Act 1992, that Act applies.

(2) An approved institution to which this section applies shall, as soon as practicable but no later than 90 days after this section is commenced, and not less than once every 3 years thereafter, require its chief officer to prepare a draft access plan of the policies of the institution in respect of— 5

(a) access to the institution by economically or socially disadvantaged people, by people who have a disability and by people from sections of society significantly under-represented in the student body, and 10

(b) equality, including gender equality, in all activities of the institution,

and the chief officer, in preparing the statement, shall have regard to such policies on those matters as may from time to time be determined by the Minister. 15

(3) The governing authority of an approved institution to which this section applies shall, having regard to the resources available to it, within one month of the preparation of the draft access plan referred to in *subsection (2)*, either approve of it without modification or, following consultation with the chief officer, approve of it with such modifications as it thinks fit. 20

(4) An approved institution to which this section applies shall implement the policies set out in its access plan as approved under *subsection (3)*. 25

(5) For the purposes of this section the terms “chief officer” and “governing authority” shall have a meaning as respects an institution to which this section applies that corresponds to the meaning given to those terms under the Universities Act 1997 as respects a university to which that Act applies. 30

SCHEDULE 1

Section 7.

5

Number and Year (1)	Short Title (2)
No. 24 of 1968	Local Authorities (Higher Education Grants) Act 1968
No. 26 of 1978	Local Authorities (Higher Education Grants) Act 1978
No. 19 of 1992	Local Authorities (Higher Education Grants) Act 1992

SCHEDULE 2

Section 24.

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1. Department of Education and Science.
2. Department of the Environment, Heritage and Local Government.
3. Department of Justice, Equality and Law Reform.
4. Department of Social and Family Affairs.
5. The Revenue Commissioners.
6. An awarding authority.
7. The Appeals Board.
8. An approved institution.
9. The Health Service Executive.
10. An tÚdarás um Ard-Oideachas.
11. A local authority.
12. The National Qualifications Authority of Ireland.
13. A person with whom an awarding authority has an arrangement pursuant to *section 10(2)* for the purposes of assisting in the payment of grants to students.