



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

EXPLANATORY MEMORANDUM

Introduction

The purpose of the Bill is to provide for a unified grant payment scheme. Such a unified scheme would replace the four existing schemes. The Bill aims to place all student support schemes on a statutory footing for the first time. It provides for awarding authorities to administer student grants in line with the provisions of the Bill and any Regulations that may be issued thereunder by the Minister for Education and Science, with the agreement as necessary of the Minister for Finance. Decisions of awarding authorities are subject to a right of appeal to an appeals officer at first instance, and then to an independent appeals board.

LONG TITLE

The Long Title of the Bill provides that the purpose of this legislation is to provide for the making of grants to enable people to attend higher and further education courses. The legislation will provide for the processing of grant applications through awarding authorities and permit appeals against their decisions to an appeals officer and subsequently to an independent appeals board.

PART 1 — PRELIMINARY AND GENERAL

Section 1 provides for the short title of the Act. It provides that the Act is to be brought into effect by Ministerial Order and that different parts of the Act may be brought into effect by different Orders.

Section 2 is the Interpretation clause and defines common terms used in the Bill. It defines ‘awarding authority’ to be a Vocational Education Committee. In assessing a person’s means, account is taken of the number of dependants they may have, and accordingly a definition of dependant is included in the Bill. The definition of the term “grant” covers maintenance and fee grants

Section 3 provides for the expenses incurred by the Minister in the administration of the Act to be paid out of monies provided by the Oireachtas.

Section 4 provides for the funding of the awarding authorities. The Minister advances to awarding authorities such amounts as the Minister, with the consent of the Minister for Finance, determines for the purposes of expenditure by the awarding authorities in the performance of their functions. This section also permits the Minister to advance an amount or amounts to a person with whom the Awarding Authority has entered into an arrangement pursuant to Section 10(2) for the purpose of assisting the awarding authority in the proper discharge of his functions.

Section 5 provides for the making of regulations by the Minister to give effect to various provisions of the Act.

Section 6 provides for the laying of regulations and orders before the Oireachtas. A resolution annulling the order or Regulation may be passed by the Oireachtas within 21 days.

Section 7 provides for repeal and transitional arrangements. The enactments specified in schedule 1 are repealed. The section provides for transitional arrangements in order to ensure that existing grantholders continue to receive grants under the existing statutory and non-statutory schemes until they have completed their course.

The Bill provides that once an existing grantholder has completed a course and wishes to progress to a course at a higher level, they will then move to the new scheme.

Section 8 provides for a definition of approved institution. Subsection (1) sets out a number of educational institutions in the State which are deemed to be approved institutions. It also deems publicly funded institutions outside the State, but within the EU, to be approved institutions. It allows the Minister to prescribe higher education institutions within the State to be approved institutions. The Bill sets out a number of matters the Minister is to have regard to in making such a determination.

Section 9 provides for a definition of approved course. *Subsection (1)* provides that an approved course means a course that takes place in an approved institution, requires full time attendance, and has been prescribed by the Minister. *Subsection (2)* sets out the matters which the Minister shall have regard to for the purposes of prescribing a course, which include the nature and level of the qualification to be awarded to the student on completion of the course, the educational institution that provides the course and whether it leads to a higher education and training award or a further education and training award. *Subsection (3)* limits the approval of postgraduate courses to courses within the State. Notwithstanding subsection (3), *subsection (4)* allows the Minister to prescribe postgraduate courses in Northern Ireland, where she/he is satisfied that this is necessary having regard to the relevant purposes set out at *subsection (8)*. *Subsection (5)* permits the payment of fee grants as well as maintenance grants in respect of approved postgraduate courses. *Subsection (6)* provides that where the Minister has prescribed postgraduate courses in Northern Ireland to be approved, that these courses will be the subject of a review at least once a year to ensure that they are continuing to meet a relevant purpose.

Section 10 sets out various functions of awarding authorities. Awarding authorities are obliged to implement Ministerial policy and directions. The section allows the Minister from time to time to appoint persons to carry out periodic inspections, reviews and audits in relation to the performance by awarding authorities of their functions.

Section 11 allows the Minister to transfer the functions of an awarding authority where the Minister is satisfied that the awarding authority in question is not performing its functions in an effective fashion. It also allows the Minister to appoint a person to investigate and report on the performance by a particular awarding authority of its functions.

Section 12 defines a student and sets out the nationality and residence requirements in the State that a student must meet in order to qualify for a grant. The residence requirement in the State to qualify for a maintenance grant will be three out of the last five years. In addition, the residence requirement will have to be met by the student him/herself. It also sets out certain categories of persons who are entitled to benefit from student grants, subject to the other terms and conditions of the schemes. It provides the Minister with the power to prescribe other categories of non-nationals that will be eligible for student support. It also defines a “tuition student”, which enables the provision of fees grants for approved courses in the State where a person meets a residency requirement in the EU/EEA or Switzerland.

PART 2 — GRANTS

Section 13 provides for the establishment of a scheme or schemes of grants which will be provided for by regulations by the Minister for Education and Science, with the consent of the Minister for Finance. The regulations for the scheme or schemes will govern the classes of grants, the category of applicants, which may include dependent, independent, mature and tuition student and criteria, including the assessment of means and other criteria to determine the eligibility of a student to a grant. The section sets out a number of factors which the Minister is to have regard to when specifying classes of applicants or criteria to be considered in determining whether an applicant is a student of a particular class. It also sets out the persons whose means may be taken into account when the Minister is drawing up regulations governing eligibility.

Section 14 allows the Minister, with the consent of the Minister for Finance, to provide by regulation for such matters of procedure and administration as may be necessary or expedient in respect of applications for grants.

Section 15 sets out procedures surrounding the application for and awarding of grants. It provides that the awarding authority may require applicants to produce evidence and information in a form acceptable to the authority to enable it to decide on the eligibility of a person for a grant. The awarding authority is obliged to notify the applicant of its decision, as well as advising on the right of appeal.

Section 16 imposes a duty on applicants to notify an awarding authority of a change in circumstances. It also provides the awarding authority with the power to seek such information as it considers appropriate for the purposes of establishing whether a student remains eligible for a grant and to stop the payment of a grant in certain circumstances. The awarding authority is entitled to decide, in light of the changed circumstances, whether the student remains eligible for a grant.

Section 17 allows for a form of internal appeal within the awarding authority where a student is dissatisfied with a decision at first instance. The appeals officer is obliged to notify an applicant of the decision and of the right to appeal. An applicant has 30 days after

the notification of the decision to lodge an appeal. This time period may be extended by a further period of 30 days if an appeals officer is satisfied that the person concerned has given reasonable cause for the extension.

Section 18 provides for an appeal from a decision of an appeals officer to an independent appeals board. An applicant has 30 days within which to lodge an appeal, although this may be extended for a further period of 30 days if reasonable cause is shown. The appeals board can affirm, vary or set aside the decision of the awarding authority.

Section 19 provides for the appointment of inquiry officers to carry out inquiries under the Act. An inquiry officer may be appointed to carry out an investigation as to whether an offence has been committed under the Act or whether there has been such a change of circumstances on behalf of a particular student that he or she is no longer eligible for a grant. A report is then furnished by the Inquiry Officer to the awarding authority. The section provides for offences for persons who fail to comply with orders of the inquiry officer.

Section 20 provides the creation of various offences. These include knowingly providing false or incomplete information to an awarding authority, appeals officer or the appeals board, aiding or abetting the commission of an offence, or knowingly using a grant otherwise than for the purposes of taking up a place on an approved course. A person found guilty of an offence is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months, or both, or on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 5 years, or both. A person found guilty of an offence will also be ineligible to apply for a grant for a period of 10 years.

Section 21 provides that where a person has received moneys from an awarding authority that he or she 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. A person is deemed to have received monies from an awarding authority where the monies are paid directly by the awarding authority to an approved institution on his or her behalf.

Section 22 provides for the creation of an independent appeals board. The Board will determine appeals and is bound to act independently and in accordance with fair procedures.

Section 23 provides that the Appeals Board shall submit a report of its activities to the Minister at such intervals and in such manner and format, as the Minister directs

PART 3 — MISCELLANEOUS

Section 24 provides for the exchange of information between various bodies listed in *Schedule 2* for relevant purposes. The relevant purposes in question facilitate the operation of various provisions of the Act. In addition, the Minister may prescribe additional bodies for the purposes of the section if it appears to the Minister that it would assist any of the bodies listed in *Schedule 2*.

Section 25 requires specified institutions to prepare draft access plans in respect of access to the institution by economically or socially disadvantaged people, by people who have a disability and

by people from sections of society that are significantly under-represented in the student body and in respect of equality, including gender equality, in all activities of the institution. Once the access plan is approved by the governing authority, the institution in question is bound to implement the policies set out therein.

Schedule 1 lists the Acts to be repealed by *Section 7*.

Schedule 2 lists bodies which may share information for the purposes of *Section 24*.