



Bille na nOllscoileanna Teicneolaíochta, 2015
Technological Universities Bill 2015

Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum



BILLE NA nOLLSCOILEANNA TEICNEOLAÍOCHTA, 2015
TECHNOLOGICAL UNIVERSITIES BILL 2015

EXPLANATORY AND FINANCIAL MEMORANDUM

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

Purpose of Bill

The main purpose of the Bill is to provide for the establishment of technological universities, a new type of higher education institution to be formed through the consolidation and merger of existing institutes of technology. The Bill also provides for the revision of the governance arrangements of the Dublin Institute of Technology and the institutes of technology under the Dublin Institute of Technology Act 1992 and the Regional Technical Colleges Act 1992 respectively.

Part 2 of the Bill provides for the merging of consortiums of institutes of technology to form new institutions of greater scale. Chapter 1 provides for the merging of Dublin Institute of Technology with the Institute of Technology, Blanchardstown and Institute of Technology, Tallaght, while Chapter 2 provides for the merging of Cork Institute of Technology and the Institute of Technology, Tralee. Each of those consortiums has already been assessed by an international expert panel and found to be on a clear trajectory to meet the very robust performance and quality criteria that have been set down for merging institutes who wish to apply for the new technological university status.

Chapter 3 of Part 2 provides a mechanism for the merging of other consortiums of institutes of technology, who may apply to the Minister to be merged.

Chapters 2 to 7 of Part 3 provide for the functions and governance of technological universities. Chapters 8 and 9 of Part 3 provide a mechanism for how the merged institutes established under Part 2 can become technological universities. Chapter 10 of Part 3 provides a mechanism for the incorporation of an institute of technology into a technological university.

Part 4 provides for appeals against certain decisions of the Minister under the Bill.

Part 5 sets out a range of transitional provisions consequent upon the making of orders under Parts 2 and 3, which will ensure that functions, assets, liabilities, staff, etc., of dissolving bodies are appropriately transferred.

Part 6 provides for a number of amendments to the governance arrangements of the Dublin Institute of Technology and the institutes of

technology under the Dublin Institute of Technology Act 1992 and the Regional Technical Colleges Act 1992 respectively.

Part 7 provides for the consequential amendment of a number of Acts.

Schedules 1 and 2 provide for matters relating to the governing bodies and presidents of technological universities respectively.

Provisions of Bill

The Bill has 117 sections divided into 7 Parts, together with 2 Schedules.

PART 1

PRELIMINARY AND GENERAL

Section 1 – Short title and commencement is a standard provision setting out the short title and commencement provisions of the Bill.

Section 2 – Interpretation defines certain words and terms used in the Bill.

Section 3 – Orders provides that a draft of any order providing for –

- the merging of two or more institutes of technology under *section 18*,
- the establishment of a technological university under *section 46*, or
- the incorporation of an institute of technology into a technological university under *section 53*,

shall be laid before each House of the Oireachtas and shall not be made until a resolution approving of the draft is passed by each House.

Section 4 – Expenses of Minister is a standard provision relating to expenses.

Section 5 – Offences is a standard provision relating to offences under the Act.

Section 6 – Amendments and repeals consequent upon orders of Minister provides for the consequential amendment or repeal of the Regional Technical Colleges Act 1992, the Dublin Institute of Technology Act 1992 or the Dublin Institute of Technology (Amendment) Act 1994 following the making of a relevant order under *section 7, 10, 18, 46 or 53*, as the case may be.

PART 2

MERGER OF INSTITUTES OF TECHNOLOGY

Chapter 1

Dissolution of Institute of Technology, Blanchardstown and Institute of Technology, Tallaght and transfer of functions

Section 7 – Dissolution of Institute of Technology, Blanchardstown and Institute of Technology, Tallaght provides that the Minister shall by order appoint a day upon which the Institute of Technology, Blanchardstown and Institute of Technology, Tallaght shall stand dissolved.

Section 8 – Transfer of functions from Institute of Technology, Blanchardstown and Institute of Technology, Tallaght to Dublin Institute of Technology provides that, on the dissolution day appointed under *section 7*, all functions of the Institute of Technology, Blanchardstown and Institute of Technology, Tallaght shall stand transferred to the Dublin Institute of Technology and all references to either of those institutions under primary

or secondary legislation shall be construed as references to the Dublin Institute of Technology.

Chapter 2

Dissolution of Cork Institute of Technology and Institute of Technology, Tralee and transfer of functions

Section 9 - Definitions for Chapter 2 of Part 2 defines certain words and terms used in that Chapter.

Section 10 – Dissolution of Cork Institute of Technology and Institute of Technology, Tralee provides that the Minister shall by order appoint a day upon which Cork Institute of Technology and Institute of Technology, Tralee shall stand dissolved. It also provides for the establishment of a new institute of technology on that day, to be known by the name specified in the order.

Section 11 – Transfer of functions from Cork Institute of Technology and Institute of Technology, Tralee to merged institute provides that, on the day appointed under *section 10*, all functions of Cork Institute of Technology and Institute of Technology, Tralee shall stand transferred to the new “merged institute” established under that section and all references to either of those institutions under primary or secondary legislation shall be construed as references to the merged institute.

Chapter 3

Application by institutes of technology to merge

Section 12 - Definitions for Chapter 3 of Part 2 defines certain words and terms used in that Chapter.

Section 13 - Application for order under section 18 provides that two or more institutes of technology, or “applicant colleges”, may jointly apply to the Minister for an order under *section 18*, which would have the effect of merging those applicant colleges.

Section 14 – Requirements on application under section 13 sets out the type of information which must be included in an application under *section 13*.

Section 15 - Advisory panel for purpose of application under section 13 provides for the appointment of an advisory panel to assess an application under *section 13* and for the provision by such a panel of a report and recommendation to An tÚdarás (i.e. the Higher Education Authority or HEA) and the Minister.

Section 16 – Matters to which Minister shall have regard on application under section 13 sets out the matters which the Minister shall have regard to when deciding whether to make an order under *section 18*.

Section 17 – Decision on application under section 13 provides for the making of a proposed decision by the Minister and subsequent interaction with the applicant colleges before the Minister makes a final decision.

Section 18 – Order establishing merged institute provides that, following a decision under *section 17*, the Minister shall by order appoint a day upon which the applicant colleges shall stand dissolved. It also provides for the establishment of a new institute of technology on that day, to be known by the name specified in the order.

Section 19 – Transfer of functions from applicant colleges to merged institute provides that, on the day appointed under *section 18*, all functions of the relevant applicant colleges shall stand transferred to the new merged

institute established under that section and all references to any of those applicant colleges under primary or secondary legislation shall be construed as references to the merged institute.

PART 3

TECHNOLOGICAL UNIVERSITY

Chapter 1

Definitions for Part 3

Section 20 – Definitions for Part 3 defines certain words and terms used in that Part.

Chapter 2

Functions of technological university

Section 21 – Technological university sets out standard provisions relating to the corporate nature and seal of the technological university. It also provides that the Minister may, following consultation with the technological university concerned, specify an alternative name for the technological university which it can use for operational purposes.

Section 22 – Functions of technological university sets out the general functions of a technology university, which include –

- providing high quality teaching and learning, undertaking assessment and making awards,
- providing relevant programmes of education and training, which are designed and delivered, where possible, with the involvement of regional stakeholders,
- encouraging mobility of staff and students, both to and from other higher education institutions, and into and out of the labour force,
- collaborating with other higher education institutions,
- engaging in high quality and relevant research,
- supporting enterprise and engaging in knowledge transfer,
- supporting the development of a skilled labour force,
- serving the community and public interest,
- promoting access to the technological university, and
- promoting gender balance and equality of opportunity.

It also sets out standard provisions relating to the acceptance of gifts by a technological university, the performance and delegation of its functions, and the establishment of dispute resolution procedures.

Section 23 – Academic freedom provides for the academic freedom of a technological university and of the members of its academic staff.

Chapter 3

Governance of technological university

Section 24 – Governing body of technological university provides that a technological university shall have a governing body to perform its functions under the Act.

Section 25 – Membership of governing body of technological university provides for the membership, terms of office, method of appointment

and gender balance of the governing body of a technological university. A governing body will have between 11 and 20 members, including the president of the technological university, a chairperson, staff and student representatives, nominees of the Minister and relevant Education and Training Boards, and between 3 and 8 other external members. Those external members will be appointed in accordance with a competency framework agreed with An tÚdarás.

Chapter 4

Staff of technological university

Section 26 – President of technological university provides for the selection, appointment and potential removal from office of the president of a technological university. The terms and conditions, including remuneration, allowances and superannuation, of the president will require the approval of the Minister and the consent of the Minister for Public Expenditure and Reform.

Section 27 – Staff of technological university provides for the appointment of staff by a technological university, for the approval of their terms and conditions by An tÚdarás and the Minister and the Minister for Public Expenditure and Reform, approval of their remuneration, fees, allowance and expenses by those Ministers and for provision to An tÚdarás of information relating to the number of staff employed and related matters. It also provides that companies in which technological universities have an interest should only pay staff of a technological university remuneration which has been consented to by An tÚdarás, the Minister and the Minister for Public Expenditure and Reform.

Chapter 5

Academic council of technological university

Section 28 – Academic council of technological university provides for the academic council of a technological university, for matters relating to its membership and terms of office of its members, and for the establishment of committees of an academic council. In accordance with the distinct mission of technological universities, the Bill provides that an academic council shall include members of staff with experience of business, enterprise or a profession, and of collaborating with related stakeholders in the region.

Section 29 – Functions of academic council provides for the general functions of an academic council, which include –

- developing programmes of education and training, supporting their implementation, and promoting the involvement of business, enterprise, the professions and related stakeholders in those programmes,
- making recommendations on research, the selection, admission, retention and exclusion of students, the form of regulations relating to assessment, and the awarding of scholarship and prizes,
- performing functions delegated by the technological university, and
- implementing relevant regulations of the technological university.

Chapter 6

Plans and Statements

Section 30 – Strategic development plan provides for the preparation by a technological university of strategic development plans to cover periods of 3-5 years, which shall specify the objectives and strategies of the technological university and take into account relevant matters relating to quality assurance and enhancement.

Section 31 – Equality statement provides for the preparation by a technological university of equality statements to cover periods of 3-5 years, which shall specify its policies relating to the promotion of access and equality. Technological universities shall implement the policies set out in their equality statements.

Chapter 7

Finance, property and reporting

Section 32 – Budgets of technological university provides for the determination of a technological university's budget for each year, for the carrying into effect of that budget and for the required course of action where the president is of the opinion that the expenditure of the technological university is likely to be in excess of that budget.

Section 33 – Borrowing, guaranteeing and underwriting provides that a technological university, or a company in which it has a proprietary interest, may only borrow money in accordance with rules made by An tÚdarás, with the approval of the Minister, the Minister for Public Expenditure and Reform and the Minister for Finance. It also provides that certain matters shall be addressed in such rules.

Section 34 – Accounts of technological university is a standard provision relating to the keeping of accounts by a technological university. A technological university shall keep accounts, shall submit them for audit to the Comptroller and Auditor General, and shall submit the audited accounts, and the report of the C&AG on the accounts, to the Minister, who shall lay those documents before each House of the Oireachtas.

Section 35 – Annual report provides that a technological university shall, not later than 30 June in each year, submit a report on its activities to An tÚdarás and the Minister, who shall lay the report before each House of the Oireachtas. In preparing those reports, regard shall be had to the technological university's strategic development plan, equality statement and requirements relating to quality assurance and enhancement.

Section 36 – Fees is a standard provision relating to the determination and charging of fees by a technological university, and provides that An tÚdarás may review and, following consultation with the Minister, provide advice on certain types of fee.

Section 37 – Power to establish, or acquire, hold or dispose of shares in, companies provides for the establishment of, acquisition of, or holding of shares in, companies by a technological university, subject to the constitution of such a company being consistent with the Bill. It also provides that a technological university may dispose of its interest in any company to which the section applies.

Chapter 8

Application to become technological university

Section 38 – Eligibility criteria sets out the criteria with which a “merged institute” established under Part 2 must comply before it can become a technological university by order of the Minister under *section 46*. These include criteria relating to –

- the composition of the student body of the merged institute,
- the composition of the academic staff of the merged institute,
- the doctoral level education and research activities of the merged institute, and
- the ability of the merged institute to perform the functions of a technological university, with particular reference to its governance structures, links to regional stakeholders, quality assurance and enhancement, mobility of staff and students, and collaboration with other higher education institutions.

Section 39 – Application for order under section 46 provides that a merged institute may apply to the Minister for an order to become a technological university under *section 46*.

Section 40 – Requirements on application under section 39 sets out the type of information which must be included in an application under *section 39*.

Section 41 – Advisory panel for purpose of application under section 39 provides for the appointment by the Minister, following the receipt of nominees from An tÚdarás and Quality and Qualifications Ireland (QQI), of an advisory panel to assess an application under *section 39*. It also provides that an advisory panel may, in conducting its assessment, consult as necessary.

Section 42 – Report of advisory panel to An tÚdarás provides that the advisory panel shall, within 120 days of being appointed, furnish a report and recommendation to An tÚdarás. Where the merged institute doesn’t comply with the criteria set out under *section 38*, the report will identify those criteria and specify conditions which would enable the merged institute to comply with those criteria.

Section 43 – Report of An tÚdarás to Minister requires An tÚdarás to provide to the Minister the advisory panel’s report, its views on that report, and any other relevant information within 60 days of receiving the report under *section 42*.

Section 44 – Decision on application under section 39 provides for the making of a proposed decision by the Minister and subsequent interaction with the merged institute before the Minister makes a final decision. That final decision may include postponing the granting of an application until the merged institute complies with conditions referred to in *section 45*.

Section 45 – Conditions for compliance with all eligibility criteria provides that the Minister may impose conditions on an applicant merged institute where the merged institute does not comply with all of the criteria set out in *section 38*. Where the merged institute does not comply with those conditions within the specified period, the application is deemed to have been refused. Where the merged institute is of the view that it has complied with the conditions, it shall notify the Minister accordingly and the section then provides for the making of a proposed decision by the

Minister and subsequent interaction with the merged institute before the Minister makes a final decision.

Chapter 9

Establishment of a technological university

Section 46 – Order establishing technological university provides that, following a relevant decision under *section 44* or *section 45*, the Minister shall by order appoint a day upon which the merged institute shall stand dissolved. It also provides for the establishment of a new technological university on that day, to be known by the name specified in the order.

Section 47 – Transfer of functions from merged institute to technological university provides that, on the day appointed under *section 46*, all functions of the merged institute shall stand transferred to the new technological university established under that section and all references to the merged institute under primary or secondary legislation shall be construed as references to that technological university.

Chapter 10

Joint application of institute of technology and technological university

Section 48 – Application for order under section 53 provides that an institute of technology and a technological university may jointly apply to the Minister for an order under *section 53*, which would have the effect of incorporating the institute of technology into the technological university.

Section 49 – Requirements on application under section 48 sets out the type of information which must be included in an application under *section 48*.

Section 50 – Advisory panel for purpose of application under section 48 provides for the appointment of an advisory panel to assess an application under *section 48* and for the provision by such a panel of a report and recommendation to An tÚdarás and the Minister.

Section 51 – Matters to which the Minister shall have regard on application under section 48 sets out the matters which the Minister shall have regard to when deciding whether to make an order under *section 53*.

Section 52 – Decision on application under section 48 provides for the making of a proposed decision by the Minister and subsequent interaction with the applicant college and applicant technological university before the Minister makes a final decision.

Section 53 – Order dissolving applicant college provides that, following a decision under *section 52*, the Minister shall by order appoint a day upon which the applicant college shall stand dissolved.

Section 54 – Transfer of functions from applicant college to technological university provides that, on the day appointed under *section 53*, all functions of the applicant college shall stand transferred to the applicant technological university and all references to any of the applicant college under primary or secondary legislation shall be construed as references to the technological university.

PART 4

APPEALS

Section 55 – Appeals board provides for the appointment by the Minister of an appeals board to hear appeals against decisions of the Minister under *sections 17, 44, 45, or 52*. Each appeals board shall be made up of three persons nominated by Quality and Qualifications Ireland, including two persons with expertise in matters relating to higher education and one person who is either a practising solicitor or barrister.

Members of an appeals board shall be paid fees and allowances determined by the Minister, with the consent of the Minister for Public Expenditure and Reform. An appeals board shall be provided with administrative support by the Minister, shall be independent in the performance of its functions, and shall determine its own procedures.

Section 56 – Appeal provides for matters relating to the hearing of an appeal by an appeals board, including –

- the provision of submissions and other information to an appeals board,
- the entitlement of each party to an appeal to be heard,
- the matters to be considered by the appeals board, and
- the making of a decision by an appeals board.

The decision of an appeals board may be to affirm the Minister’s decision, or the quashing of the Minister’s decision and a direction to the Minister to reconsider his or her decision.

PART 5

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

Chapter 1

Definitions for Chapters 2 and 3 of Part 5

Section 57 – Definitions for Chapters 2 and 3 of Part 5 defines certain words and terms used in those Chapters.

Chapter 2

General transitional provisions consequent upon order under Part 2

Section 58 – Transfer of land and other property to merged institute is a standard provision relating to the transfer of land and other property from an institute of technology dissolved by order under Part 2 to the relevant merged institute.

Section 59 – Transfer of rights and liabilities and continuation of leases, licences and permissions to merged institute is a standard provision relating to the transfer of rights, liabilities, leases, licences, etc., from an institute of technology dissolved by order under Part 2 to the relevant merged institute.

Section 60 – Liability for loss occurring before designated day is a standard provision relating to the transfer of legal claims, legal proceedings and judgements from an institute of technology dissolved by order under Part 2 to the relevant merged institute.

Section 61 – Provisions consequent upon transfer of functions, assets and liabilities to merged institute is a standard provision relating to the transfer of functions, instruments, stocks, shares and certificates from an

institute of technology dissolved by order under Part 2 to the relevant merged institute.

Section 62 – Final accounts and final report of dissolved body is a standard provision requiring the relevant merged institute, in respect of each relevant dissolved body, to –

- prepare their final accounts and submit those accounts to the C&AG for audit, and
- prepare their final annual reports,

and to submit the audited accounts, reports of the C&AG and annual reports to the Minister, who shall ensure they are laid before each House of the Oireachtas.

Section 63 – Transfer of staff to merged institute is a standard provision providing for the transfer of the staff of each institute of technology dissolved under Part 2 to the relevant merged institute, as fixed-term employees where appropriate. It preserves the conditions of remuneration of transferring staff and provides for the reckoning of previous service as service for the purpose of certain specified enactments.

Section 64 – Superannuation of staff of merged institute provides that staff transferring from each institute of technology dissolved under Part 2 to the relevant merged institute remain members of the Education Sector Superannuation Scheme or the Single Public Service Pension Scheme, as the case may be.

Chapter 3

Arrangements required consequent upon order under Part 2

Section 65 – Arrangements for first governing body following order under section 7 provides for the appointment of a new governing body of the Dublin Institute of Technology on the day appointed by order under *section 7*, which is the day upon which the Institute of Technology, Blanchardstown and the Institute of Technology, Tallaght, are to be merged with the DIT.

It is intended to also commence *section 90* of the Bill on that day. That section has the effect of substituting a new section for *section 6* of the Dublin Institute of Technology Act 1992, thereby reforming the membership and appointment of the governing body of the DIT. References in *section 65* to that section of the 1992 Act are references to that section as amended by *section 90*.

Section 65 provides that the Minister shall appoint members of the first governing body of the merged institute, whose term of office shall be two years. Those members shall be –

- a chairperson,
- two external members nominated by the Minister, and
- a nominee of the relevant Education and Training Boards.

The president of the merged institute shall also be a member of the first governing body.

Within 6 months, the first governing body is required to agree a competency framework with An tÚdarás for the appointment of external members, establish procedures for the election of staff representatives and the appointment of external members and to conduct elections and make appointments to the governing body.

Section 66 – Arrangements for first governing body following order under section 10 or 18 provides for the appointment of the first governing body of a new institute of technology established by order under *section 10* or *18*, as the case may be, which will be formed through the merger of two or more institutes of technology.

It is intended to commence *section 103* of the Bill not later than the first day appointed by an order under *section 10* or *18*. That section has the effect of substituting a new section for section 6 of the Regional Technical Colleges Act 1992, thereby reforming the membership and appointment of the governing body of an institute of technology. References in *section 66* to that section of the 1992 Act are references to that section as amended by *section 103*.

Section 66 provides that the Minister shall appoint members of the first governing body of the merged institute, whose term of office shall be two years. Those members shall be –

- a chairperson,
- two external members nominated by the Minister, and
- a nominee of the relevant Education and Training Boards.

The president of the merged institute shall also be a member of the first governing body.

Within 6 months, the first governing body is required to agree a competency framework with An tÚdarás for the appointment of external members, establish procedures for the election of staff representatives and the appointment of external members and to conduct elections and make appointments to the governing body.

Section 67 – Arrangements for Directors of dissolved bodies provides that a person who is the Director of an institute of technology which is dissolved by order under Part 2 shall become a fixed-term employee of the relevant merged institute, unless they are appointed by the Minister to be the first Director of the merged institute under *section 68*. The conditions of remuneration of persons transferred under this section are preserved.

Section 68 – First Director and president of merged institute enables the Minister to designate a person to be the first Director of a merged institute established by order under *section 10* or *section 18*. Where that person was the Director of an institute of technology dissolved by such an order, they will hold office for the unexpired period of their term of office. It also provides that the president of the DIT on the day an order is made under *section 7* shall be the first president of the merged institute concerned and shall also hold office for the unexpired period of their term of office.

Section 69 – Continuation of programmes of education and training following order under section 7 provides that programmes of education and training provided by a body dissolved by order under *section 8*, and which led to an award of QQI or of the dissolved body under authority delegated to it by QQI, shall become programmes of education and training provided by the DIT, which lead to awards made by the DIT.

Section 70 – Continuation of programmes of education and training following order under section 10 or 18 provides that programmes of education and training provided by a body dissolved by order under *section 10* or *section 18*, and which were validated by QQI, shall become programmes of education and training provided by the relevant merged institute, validated by QQI, and that any conditions imposed by QQI in respect of that validation shall continue to apply.

It also provides that programmes of education and training provided by a body dissolved by order under *section 10* or *section 18*, and in respect of which authority to make awards has been delegated by QQI, shall become programmes of education and training provided by the relevant merged institute, in respect of which authority to make awards has been delegated by QQI, and that any conditions imposed by QQI in respect of that delegation shall continue to apply.

Section 71 – Arrangements relating to international education mark following order under Part 2 provides for the transfer of arrangements relating to the international education mark where an order is made under *section 7*, *section 10* or *section 18*.

Where an order is made under *section 7*, and where all of the relevant bodies concerned are authorised by QQI to use the international education mark, the DIT shall comply with any conditions attaching to those authorisations and shall be liable for each of the relevant annual charges.

Where an order is made under *section 10* or *section 18*, and where all of the relevant bodies concerned are authorised by QQI to use the international education mark, the merged institute concerned shall be deemed to be so authorised, shall comply with any conditions attaching to those authorisations and shall be liable for each of the relevant annual charges.

It also provides that, where an order is made under *section 7* and DIT does have authorisation to use the international education but one of the dissolved bodies concerned does not have such authorisation, then authorisation is deemed to have been withdrawn from the DIT.

Section 72 – Arrangements relating to quality assurance and access, transfer and progression procedures following order under Part 2 provides for the transfer of arrangements relating to quality assurance and access, transfer and progression where an order is made under *section 7*, *section 10* or *section 18*.

Where an order is made under *section 7*, it is provided that any procedures for quality assurance or procedures for access, transfer and progression established by the DIT shall continue to apply.

Where an order is made under *section 10* or *section 18*, it is provided that any procedures for quality assurance or procedures for access, transfer and progression established by a dissolved body shall become procedures of the relevant merged institute.

Chapter 4

Definitions for Chapters 5 and 6 of Part 5

Section 73 – Definitions for Chapters 5 and 6 of Part 5 defines certain words and terms used in those Chapters.

Chapter 5

General transitional provisions consequent upon order under Part 3

Section 74 – Transfer of land and other property to technological university is a standard provision relating to the transfer of land and other property from a merged institute or applicant institute of technology dissolved by order under Part 3 to the relevant technological university.

Section 75 – Transfer of rights and liabilities and continuation of leases, licences and permissions to technological university is a standard provision relating to the transfer of rights, liabilities, leases, licences, etc, from a

merged institute or applicant institute of technology dissolved by order under Part 3 to the relevant technological university.

Section 76 – Liability for loss occurring before appointed day is a standard provision relating to the transfer of legal claims, legal proceedings and judgements from a merged institute or applicant institute of technology dissolved by order under Part 3 to the relevant technological university.

Section 77 – Provisions consequent upon transfer of functions, assets and liabilities to technological university is a standard provision relating to the transfer of functions, instruments, stocks, shares and certificates from a merged institute or applicant institute of technology dissolved by order under Part 3 to the relevant technological university.

Section 78 – Final accounts and final report of dissolved body is a standard provision requiring the relevant technological university, in respect of a merged institute or applicant institute of technology dissolved by order under Part 3, to –

- prepare its final accounts and submit those accounts to the C&AG for audit, and
- prepare its final annual report,

and submit the audited accounts, report of the C&AG and annual report to the Minister, who shall ensure they are laid before each House of the Oireachtas.

Section 79 – Transfer of staff to technological university is a standard provision providing for the transfer of the staff of a merged institute or applicant institute of technology dissolved by order under Part 3 to the relevant technological university, as fixed-term employees where appropriate. It preserves the conditions of remuneration of transferring staff and provides for the reckoning of previous service as service for the purpose of certain specified enactments.

Section 80 – Superannuation of staff of technological university provides that staff transferring from a merged institute or applicant institute of technology dissolved by order under Part 3 to the relevant technological university remain members of the Education Sector Superannuation Scheme or the Single Public Service Pension Scheme, as the case may be.

It also provides that a pensionable public servant who is appointed to be a member of staff of the technological university under *section 26* or *section 27*, and who is not a member of the Single Public Service Pension Scheme, shall become a member of the Education Sector Superannuation Scheme.

Chapter 6

Arrangements consequent upon order under Part 3

Section 81 – Arrangements for first governing body following order under Part 3 provides for the appointment of the first governing body of a new technological university established by order under *section 46*. The Minister shall appoint members of that first governing body, whose term of office shall be two years. Those members shall be –

- a chairperson,
- two external members nominated by the Minister, and
- a nominee of the relevant Education and Training Boards.

The president of the technological university shall also be a member of the first governing body.

Within 6 months, the first governing body is required to agree a competency framework with An tÚdarás for the appointment of external members, establish procedures for the election of staff representatives and the appointment of external members and to conduct elections and make appointments to the governing body.

Section 82 – First president following order under section 46 provides that the president of the relevant merged institute on the day an order is made under *section 46* shall be the first president of the technological university concerned and shall hold office for the unexpired period of their term of office.

Section 83 – Arrangements for Director following order under section 53 provides that a person who is the Director of an institute of technology which is dissolved by order under *section 53* shall become a fixed-term employee of the relevant technological university and that their conditions of remuneration are preserved.

Section 84 – Continuation of programmes of education and training following order under Part 3 provides that programmes of education and training provided by a body dissolved by order under *section 46* or *section 53*, and which led to –

- an award of QQI, or
- an award of the dissolved body made under authority delegated to it by QQI, or
- an award of the DIT,

shall become programmes of education and training provided by the relevant technological university, which lead to awards made by that technological university.

Section 85 – Arrangements relating to international education mark following order under Part 3 provides for the transfer of arrangements relating to the international education mark where an order is made under *section 46* or *section 53*.

Where an order is made under *section 46*, and where the merged institute concerned was authorised by QQI to use the international education mark, the relevant technological university shall be deemed to be so authorised, shall comply with any conditions attaching to that authorisation and shall be liable for the relevant annual charge.

Where an order is made under *section 53*, and where both the institute of technology and the technological university concerned are authorised by QQI to use the international education mark, that technological university shall comply with any conditions attaching to those authorisations and shall be liable for each of the relevant annual charges.

It also provides that, where an order is made under *section 53* and the technological university concerned does have authorisation to use the international education mark, but the institute of technology concerned does not have such authorisation, then authorisation is deemed to have been withdrawn from the technological university.

Section 86 – Arrangements relating to quality assurance and access, transfer and progression procedures following order under Part 3 provides for the transfer of arrangements relating to quality assurance and access, transfer and progression where an order is made under *section 46* or *section 53*.

Where an order is made under *section 46*, it is provided that any procedures for quality assurance or procedures for access, transfer and

progression established by the merged institute concerned shall continue as procedures of the relevant technological university.

Where an order is made under *section 53*, it is provided that any procedures for quality assurance or procedures for access, transfer and progression established by the institute of technology concerned shall no longer apply and procedures of the relevant technological university shall continue to apply.

PART 6

AMENDMENT OF DUBLIN INSTITUTE OF TECHNOLOGY ACT 1992, DUBLIN INSTITUTE OF TECHNOLOGY (AMENDMENT) ACT 1994, ACT OF 1992 AND REGIONAL TECHNICAL COLLEGES (AMENDMENT) ACT 1994

Chapter 1

Amendment of Dublin Institute of Technology Act 1992 and Dublin Institute of Technology (Amendment) Act 1994 and other enactments

Section 87 – Amendment of section 2 of Dublin Institute of Technology Act 1992 provides for the amendment of section 2 of the Dublin Institute of Technology Act 1992 to define certain words and terms used in provisions to be inserted into that Act by the Bill.

Section 88 – Offences provides for the insertion of a new section 2A into the Dublin Institute of Technology Act 1992. This new section is a standard provision relating to offences under that Act and is required because of the inclusion of a new offence in the revised Second Schedule of the Act to be inserted by *section 97*.

Section 89 – Amendment of section 3 of Dublin Institute of Technology Act 1992 provides for the amendment of section 3 of the Dublin Institute of Technology Act 1992 to enable the Minister, following consultation with the DIT, to specify by order an operational name for the DIT.

Section 90 – Governing Body replaces section 6 of the Dublin Institute of Technology Act 1992 with a new section setting out revised arrangements for the membership, terms of office, method of appointment and gender balance of the governing body of the DIT.

The reformed governing body will have between 11 and 20 members, including the president of the DIT, a chairperson, staff and student representatives, nominees of the Minister and relevant Education and Training Boards, and between 3 and 8 other external members. Those external members will be appointed in accordance with a competency framework agreed with An tÚdarás.

It is the intention to bring this into effect simultaneously with the making of an order under *section 7*, giving effect to the merging of the DIT with the Institute of Technology, Blanchardstown and Institute of Technology, Tallaght.

Section 91 – Amendment of section 7 of Dublin Institute of Technology Act 1992 provides for the deletion of subsections (4) and (5) of section 7 of the Dublin Institute of Technology Act 1992. Those subsections relate to the appointment of committees of the DIT's governing body, which will instead be addressed in the revised Second Schedule of that Act, which is to be inserted by *section 97*.

Section 92 – Amendment of section 11 of Dublin Institute of Technology Act 1992 provides for the substitution of a new subsection (2) into section 11 of the Dublin Institute of Technology Act 1992. The effect of this

substitution will be to revise the arrangements relating to the appointment and membership of the Academic Council of the DIT, and provide that the President of the DIT shall be an *ex officio* member of the Council and be entitled to preside at meetings of the Council, which is currently provided for in the Third Schedule of that Act.

Section 93 – Amendment of section 12A of Dublin Institute of Technology Act 1992 provides for the revision and clarification of the procedures of the DIT relating to the recruitment and selection of staff.

Section 94 – Amendment of dismissal arrangements for certain staff of Dublin Institute of Technology repeals provisions of the Dublin Institute of Technology Act 1992 and the Education and Training Boards Act 2013 which provide that members of staff who were employed by the DIT before the commencement of the 1992 Act, and only those members of staff, may not be removed from office without the consent of the Minister. The Education and Training Boards Act 2013 removed this protection for Vocational Education Committee (VEC) employees, all of whom can now be removed from office by the relevant ETB. *Section 94* also provides for related transitional matters.

Section 95 – Amendment of section 14 of Dublin Institute of Technology Act 1992 provides for the revision and clarification of arrangements relating to the determination of budgets and the borrowing of money by the DIT, by amending the relevant provisions of section 14 of the Dublin Institute of Technology Act 1992.

With regard to the determination of budgets, the amendments will provide that the budget of the DIT shall be prepared by the President, in accordance with the President's role as the accounting officer responsible for the DIT's finances.

With regard to borrowing, the amendments will provide that the DIT, or a company in which it has a proprietary interest, may only borrow money in accordance with rules made by An tÚdarás, with the approval of the Minister, the Minister for Public Expenditure and Reform and the Minister for Finance. It also provides that certain matters shall be addressed in such rules.

Section 96 – Inspection provides for the substitution of a new section for section 21 of the Dublin Institute of Technology Act 1992. The purpose of this amendment is to revise the manner in which an inspector can be appointed to report into matters relating to the operation of the DIT.

Section 97 – Amendment of Second Schedule to Dublin Institute of Technology Act 1992 provides for the insertion of a new Second Schedule, providing for matters relating to the governing body of the DIT, into the Dublin Institute of Technology Act 1992.

The revised Second Schedule shall provide for –

- matters relating to the seal of the DIT,
- the terms and conditions of office, including those relating to remuneration, allowances or expenses, of members of the governing body,
- standard provisions relating to the resignation and removal from office of members of the governing body,
- the filling of casual vacancies on the governing body,
- matters relating to the holding of meetings of the governing body, including the number of such meetings to take place in each year, the

quorum for meetings, the chairing of meetings, and the making of decisions,

- matters relating to the establishment of committees of the governing body, including their functions, membership, and payment of expenses to members,
- reasons why a member of the governing body may cease to be qualified to be a member of the governing body, or may otherwise cease to be a member of the governing body,
- matters relating to the disclosure of interests by members of the governing body, or members of committees of the governing body,
- matters relating to the disclosure of confidential information by certain persons, including members of the governing body,
- the regulation by the governing body of its procedure and business, and
- the making by the governing body of rules, referred to as regulations of the Institute, for the conduct of the affairs of the DIT.

Section 98 – Amendment of Third Schedule to Dublin Institute of Technology Act 1992 provides for the deletion of paragraphs (5) and (6) from the Third Schedule to the Dublin Institute of Technology Act 1992. Paragraph (5) provides that the default position is that the President is a member of, and presides over, every committee of the governing body. Deleting this paragraph will ensure the membership of such committees is entirely a matter for the governing body. Paragraph (6) relates to the President's membership of the Academic Council and is being moved to section 11 of the 1992 Act by *section 92*.

It also provides for the amendment of paragraph (7) of the Third Schedule to provide that the President's term of office shall not exceed 10 years. Paragraph (7) currently provides that the President's term of office shall be 10 years.

Section 99 – Amendment of Dublin Institute of Technology (Amendment) Act 1994 provides for the amendment of certain provisions of the Dublin Institute of Technology (Amendment) Act 1994 which relate to the appointment of a commission by the Minister to carry out such functions of the governing body of the DIT as the Minister determines.

The effect of these amendments would be to provide that the Minister, before appointing such a commission, should inform the governing body of his or her intention to appoint the commission, invite the governing body to make representations in that regard, and take into consideration any representations made.

Section 100 – Repeal of section 4 of Dublin Institute of Technology (Amendment) Act 1994 provides for the repeal of provisions of the Dublin Institute of Technology (Amendment) Act 1994 which relate to the membership of DIT's governing body. The membership of that governing body will be addressed entirely by the new section of the 1992 Act which is to be inserted by *section 90*.

Chapter 2

Amendment of Act of 1992, Regional Technical Colleges (Amendment) Act 1994 and other enactments

Section 101 – Amendment of section 2 of Act of 1992 provides for the amendment of section 2 of the Regional Technical Colleges Act 1992 to define certain words and terms used in provisions to be inserted into that Act by the Bill.

Section 102 – Offences provides for the insertion of a new section 2A into the Regional Technical Colleges Act 1992. This new section is a standard provision relating to offences under that Act and is required because of the inclusion of a new offence in the revised Second Schedule of the Act to be inserted by *section 111*.

Section 103 – Governing bodies replaces section 6 of the Regional Technical Colleges Act 1992 with a new section setting out revised arrangements for the membership, terms of office, method of appointment and gender balance of the governing body of each institute of technology.

The reformed governing body will have between 11 and 20 members, including the president of the institute of technology, a chairperson, staff and student representatives, nominees of the Minister and relevant Education and Training Boards, and between 3 and 8 other external members. Those external members will be appointed in accordance with a competency framework agreed with An tÚdarás.

It is the intention to bring this into effect not later than the first day appointed by an order under *section 10* or *18*.

Section 104 – Transitional arrangements consequent upon section 103 sets out transitional provisions relating to the amendment of the arrangements for the membership, terms of office, method of appointment and gender balance of the governing body of each institute of technology provided for under *section 103*.

It provides for the appointment by the Minister of a new governing body of each institute of technology following the coming into operation of *section 103*.

The Minister shall appoint a number of members of each new governing body, whose term of office shall be two years. Those members shall be –

- a chairperson,
- two external members nominated by the Minister, and
- a nominee of the relevant Education and Training Boards.

The Director of each institute of technology shall also be a member of the each new governing body.

Within 6 months, each new governing body is required to agree a competency framework with An tÚdarás for the appointment of external members, establish procedures for the election of staff representatives and the appointment of external members and to conduct elections and make appointments to the governing body.

Section 105 – Amendment of section 7 of Act of 1992 provides for the deletion of subsections (4) and (5) of section 7 of the Regional Technical Colleges Act 1992. Those subsections relate to the appointment of committees of governing bodies of institutes of technology, which will instead be addressed in the revised Second Schedule of that Act, which is to be inserted by *section 111*.

Section 106 – Amendment of section 10 of Act of 1992 provides for the substitution of a new subsection (2) into section 10 of the Regional Technical Colleges Act 1992. The effect of this substitution will be to revise the arrangements relating to the appointment and membership of the Academic Councils of the institutes of technology, and provide that the President of each institute of technology shall be an *ex officio* member of the relevant Council and be entitled to preside at meetings of that Council, which is currently provided for in the Third Schedule of that Act.

Section 107 – Amendment of section 11A of Act of 1992 provides for the revision and clarification of the procedures of the DIT relating to the recruitment and selection of staff.

Section 108 – Amendment of dismissal arrangements for certain staff of colleges repeals provisions of the Regional Technical Colleges Act 1992 and the Education and Training Boards Act 2013 which provide that members of staff of institutes of technology who were employed by that institute of technology before the commencement of the 1992 Act, and only those members of staff, may not be removed from office without the consent of the Minister. The Education and Training Boards Act 2013 removed this protection for Vocational Education Committee (VEC) employees, all of whom can now be removed from office by the relevant ETB. *Section 108* also provides for related transitional matters.

Section 109 – Amendment of section 13 of Act of 1992 provides for the revision and clarification of arrangements relating to the determination of budgets and the borrowing of money by institutes of technology, by amending the relevant provisions of section 13 of the Regional Technical Colleges Act 1992.

With regard to the determination of budgets, the amendments will provide that the budget of an institute of technology shall be prepared by the Director of each institute of technology, in accordance with each Director's role as the accounting officer responsible for an institute of technology's finances.

With regard to borrowing, the amendments will provide that an institute of technology, or a company in which it has a proprietary interest, may only borrow money in accordance with rules made by An tÚdarás, with the approval of the Minister, the Minister for Public Expenditure and Reform and the Minister for Finance. It also provides that certain matters shall be addressed in such rules.

Section 110 – Inspection provides for the substitution of a new section for section 20 of the Regional Technical Colleges Act 1992. The purpose of this amendment is to revise the manner in which an inspector can be appointed to report into matters relating to the operation of institute of technology.

Section 111 – Amendment of Second Schedule to Act of 1992 provides for the insertion of a new Second Schedule, providing for matters relating to the governing body of each institute of technology, into the Regional Technical Colleges Act 1992.

The revised Second Schedule shall provide for –

- matters relating to the seal of an institute of technology,
- the terms and conditions of office, including those relating to remuneration, allowances or expenses, of members of a governing body,
- standard provisions relating to the resignation and removal from office of members of a governing body,

- the filling of casual vacancies on a governing body,
- matters relating to the holding of meetings of a governing body, including the number of such meetings to take place in each year, the quorum for meetings, the chairing of meetings, and the making of decisions,
- matters relating to the establishment of committees of governing bodies, including their functions, membership, and payment of expenses to members,
- reasons why a member of a governing body may cease to be qualified to be a member of the governing body, or may otherwise cease to be a member of the governing body,
- matters relating to the disclosure of interests by members of a governing body, or members of committees of a governing body,
- matters relating to the disclosure of confidential information by certain persons, including members of a governing body,
- the regulation by a governing body of its procedure and business, and
- the making by a governing body of rules, referred to as regulations of the college, for the conduct of the affairs of an institute of technology.

Section 112 – Amendment of Third Schedule to Act of 1992 provides for the deletion of paragraphs (5) and (6) from the Third Schedule to Regional Technical Colleges Act 1992. Paragraph (5) provides that the default position is that the Director of an institute of technology is a member of, and presides over, every committee of the governing body of that institute of technology. Deleting this paragraph will ensure the membership of such committees is entirely a matter for the governing body. Paragraph (6) relates to the Director’s membership of the Academic Council and is being moved to section 10 of the 1992 Act by *section 106*.

Section 113 – Amendment of section 2 of Regional Technical Colleges (Amendment) Act 1994 provides for the amendment of certain provisions of the Regional Technical Colleges (Amendment) Act 1994 which relate to the appointment of a commission by the Minister to carry out such functions of the governing body of an institute of technology as the Minister determines.

The effect of these amendments would be to provide that the Minister, before appointing such a commission, should inform the relevant governing body of his or her intention to appoint the commission, invite that governing body to make representations in that regard, and take into consideration any representations made.

Section 114 – Repeal of section 4 of Regional Technical Colleges (Amendment) Act 1994 provides for the repeal of provisions of the Regional Technical Colleges (Amendment) Act 1994 which relate to the membership of the governing bodies of institutes of technology. The membership of those governing bodies will be addressed entirely by the new section of the 1992 Act which is to be inserted by *section 103*.

PART 7

AMENDMENT OF CERTAIN ENACTMENTS

Section 115 – Amendment of Higher Education Authority Act 1971 provides for the amendment of section 1 of the Higher Education Authority Act 1971 to include “technological university” within the definition of “institution of higher education”.

Section 116 – Amendment of Student Support Act 2011 provides for the amendment of section 7 of the Student Support Act 2011 to ensure technological universities are “approved institutions” under that Act and section 30 of that Act to exclude technological universities from the requirement to prepare access plans under that Act, in the same way universities, the DIT and institutes of technology are so excluded.

Section 117 – Amendment of Qualifications and Quality Assurance (Education and Training) Act 2012 provides for the amendment of section 2 of the Qualifications and Quality Assurance (Education and Training) Act 2012 to include “technological university” in the definitions both “designated awarding body” and “relevant provider” and to insert a definition of “technological university”. It also provides for the amendment of section 65 of that Act to exclude technological universities from the requirement to put in place arrangements for the protection of learners under that Act, in the same way universities, the DIT and institutes of technology are so excluded.

SCHEDULE 1 – Governing body of technological university provides for matters relating to the governing body of a technological university, including -

- matters relating to the seal of an institute of technology,
- the terms and conditions of office, including those relating to remuneration, allowances or expenses, of members of a governing body,
- standard provisions relating to the resignation and removal from office of members of a governing body,
- the filling of casual vacancies on a governing body,
- matters relating to the holding of meetings of a governing body, including the number of such meetings to take place in each year, the quorum for meetings, the chairing of meetings, and the making of decisions,
- matters relating to the establishment of committees of governing bodies, including their functions, membership, and payment of expenses to members,
- reasons why a member of a governing body may cease to be qualified to be a member of the governing body, or may otherwise cease to be a member of the governing body,
- matters relating to the disclosure of interests by members of a governing body, or members of committees of a governing body,
- matters relating to the disclosure of confidential information by certain persons, including members of a governing body,
- the regulation by a governing body of its procedure and business, and
- the making by a governing body of rules, referred to as regulations of the technological university, for the conduct of the affairs of the technological university.

SCHEDULE 2 – President of technological university provides for matters relating to the President of a technological university, including –

- matters relating to the functions of the president, including the determination of other functions by the technological university, the delegation by the president of his or her functions to a member of staff, and the president’s accountability to the technological university for the performance of those functions,

- the making of proposals by the president to the technological university,
- the provision by the president of information to the technological university,
- the designation, by the technological university, of a person to perform the functions of the president where the president is absent or the position of president is vacant,
- the need for the president to have the consent of the technological university to hold any other office or position,
- the term of office of the president, and
- matters relating to the accountability of the president to the Public Accounts Committee or other Committees of the Oireachtas.