



SEANAD ÉIREANN

**AN BILLE UM CHÁILÍOCHTAÍ AGUS DEARBHÚ
CÁILÍOCHTA (OIDEACHAS AGUS OILIÚINT) (LEASÚ), 2018
QUALIFICATIONS AND QUALITY ASSURANCE
(EDUCATION AND TRAINING) (AMENDMENT) BILL 2018**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM CHÁILÍOCHTAÍ AGUS DEARBHÚ CÁILÍOCHTA (OIDEACHAS AGUS OILIÚINT) (LEASÚ), 2018 —AN COISTE

QUALIFICATIONS AND QUALITY ASSURANCE (EDUCATION AND TRAINING) (AMENDMENT) BILL 2018 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 3

*1. In page 7, line 2, after “providing” to insert “one or more”.

*2. In page 7, to delete line 24 and substitute the following:

“programme,

and section 45 shall be construed and operate so as to require the Authority to be so satisfied as to those matters.”.

*3. In page 7, line 26, to delete “its principal” and substitute “a”.

SECTION 4

*4. In page 8, lines 6 and 7, to delete “Data Protection Act 2018” and substitute the following:

“general law (and in particular the relevant law of the European Union and the Data Protection Act 2018)”.

*5. In page 8, line 20, to delete “investigations” and substitute “reviews”.

*6. In page 8, line 22, to delete “investigations” and substitute “reviews”.

SECTION 5

*7. In page 8, between lines 23 and 24, to insert the following:

“Amendment of section 13 of Principal Act (Co-operation with Authority)

5. Section 13 of the Principal Act is amended by the insertion of the following subsection after subsection (3):

“(4) In this section and section 14 a reference to a relevant provider shall be construed as including a reference to a listed awarding body, whether or not it is a listed awarding body that falls within paragraph (k) of the definition of ‘relevant provider’ in section 2(1).”.

[SECTION 5]

8. In page 8, line 26, after “other” to insert “public”.

—*Senator Alice-Mary Higgins.*

- *9. In page 8, line 27, to delete “Subject to the Data Protection Act 2018” and substitute “(1) Subject to subsection (2)”.

10. In page 8, lines 27 to 32, to delete all words from and including “, the” in line 27 down to and including line 32 and substitute the following:

“and suitable and specific measures, the Authority may put in place and publish an appropriate data sharing agreement with a Department of State, the Office of the Revenue Commissioners, An tUdarás um Ard-Oideachas, Solas, the Central Applications Office or other public body.”.

—*Senator Alice-Mary Higgins.*

11. In page 8, lines 27 to 32, to delete all words from and including “may” in line 27 down to and including line 32 and substitute the following:

“may put in place a data sharing agreement with a Department of State, the Office of the Revenue Commissioners, An tUdarás um Ard-Oideachas, Solas and the Central Applications Office. The Minister shall, having consulted with the Minister for Justice and Equality and the Data Protection Commission set out suitable and specific measures in respect of any such data sharing agreement. These measures must include but not be limited to:

- (a) publication of the data sharing agreement;
- (b) consultation with any data subjects who may be affected;
- (c) appropriate regulation in respect of the storage and processing of any data;
- (d) measures to ensure that any sharing of data is necessary and proportionate; and
- (e) other measures as required.”.

—*Senator Alice-Mary Higgins.*

12. In page 8, line 30, after “other” to insert “public”.

—*Senator Alice-Mary Higgins.*

- *13. In page 8, line 32, to delete “other body.” and substitute the following:

“other body.

- (2) Subsection (1) does not apply to information that is personal data within the meaning of the General Data Protection Regulation; the furnishing to others of personal data by the Authority shall be in accordance with the general law, and in particular:

[SECTION 5]

- (a) the General Data Protection Regulation; and
 - (b) as applicable—
 - (i) the Data Protection Act 2018; and
 - (ii) any Act of the Oireachtas that is passed, before, on or after the commencement of section 5 of the Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2018, for the purpose of, amongst other things, the regulation of the sharing of personal data (or both personal data and other information) between public bodies.
- (3) In subsection (2) ‘General Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.”.

Section opposed.

—*Senator Alice-Mary Higgins.*

SECTION 8

- *14. In page 11, line 8, to delete “**relevant**” and substitute “**specified**”.
- *15. In page 11, line 10, to delete “relevant” and substitute “specified”.
- *16. In page 11, line 10, to delete “specified” and substitute “referred to”.
- *17. In page 11, to delete lines 16 to 18 and substitute the following:
 - “(b) a case in which—
 - (i) the provider who, having invoked (whether before, on or after the operative date) any provision of this Act, subsequently invokes any provision of this Act, and
 - (ii) the Authority, in its discretion, on that provision being invoked by the provider, requests the provider to demonstrate to the Authority that it meets those criteria;”.
- *18. In page 11, line 23, after “action,” to insert “in its discretion,”.
- *19. In page 11, line 34, after “the” to insert “specified”.
- *20. In page 11, line 37, after “the” to insert “specified”.
- *21. In page 12, between lines 1 and 2, to insert the following:
 - “(a) ‘specified provider’ means—
 - (i) a relevant provider,
 - (ii) a listed awarding body (so far as it does not otherwise fall within this definition by virtue of subparagraph (i)), and
 - (iii) an associated provider, or a linked provider, that offers, for

[SECTION 8]

reward, a programme of education and training leading to an award that is an award included within the Framework,

and the reference in this paragraph to a relevant provider includes a reference to a person who will fall within the definition of that expression in section 2(1) on the doing of the one or more things, specified in the relevant paragraph of that definition, the doing of which constitute the person as a relevant provider;”.

- *22. In page 12, line 2, to delete “(a) a reference” and substitute “(b) a reference”.
 - *23. In page 12, line 4, after “mark;” to insert “and”.
 - *24. In page 12, line 5, to delete “(b) ‘operative date’ ” and substitute “(c) ‘operative date’ ”.
 - *25. In page 12, line 7, to delete “2018; and” and substitute “2018.”.
 - *26. In page 12, to delete lines 8 to 12.
 - *27. In page 12, line 21, to delete “relevant” and substitute “specified”.
 - *28. In page 12, line 23, to delete “relevant” and substitute “specified”.
 - *29. In page 12, to delete lines 30 to 34 and substitute the following:
 - “(2) The relevant criteria may include—
 - (a) criteria as to the specified provider being a fit and proper person to provide programmes of education and training, and
 - (b) criteria related to the possession of a particular legal personality by the specified provider, the possession by it of adequate financial resources to ensure the viability of its business and the securing by it of arrangements to ensure its good corporate governance.”.
 - *30. In page 12, line 35, to delete “relevant” and substitute “specified”.
 - *31. In page 13, line 16, to delete “relevant” and substitute “specified”.
 - *32. In page 13, line 21, to delete “relevant” and substitute “specified”.
 - *33. In page 13, line 24, to delete “relevant” where it secondly occurs and substitute “specified”.
 - *34. In page 13, line 33, to delete “relevant” and substitute “specified”.
 - *35. In page 13, line 38, to delete “relevant” and substitute “specified”.
 - *36. In page 13, line 40, to delete “relevant” and substitute “specified”.
 - *37. In page 14, line 2, to delete “relevant” and substitute “specified”.
 - *38. In page 14, line 13, to delete “relevant” and substitute “specified”.
- SECTION 13
- *39. In page 16, line 9, after “levels” to insert “and types”.
 - *40. In page 16, line 11, after “level” to insert “, and of the type concerned,”.

[SECTION 17]

SECTION 17

*41. In page 19, line 31, to delete “subsection” and substitute “subsections”.

*42. In page 20, to delete line 5 and substitute the following:

“validation.

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

(8) Where the Authority withdraws its validation of a programme of education and training under subsection (6)(b) or (c), the provider concerned may appeal against that withdrawal to the Appeals Panel.”.”.

SECTION 22

*43. In page 27, line 2, after “provider” to insert “, having a place of business in the State,”.

*44. In page 30, line 2, to delete “bodies, or” and substitute the following:

“bodies with reference (as the Authority considers appropriate) either—

(i) to each of the one or more awards as respects which the body’s name had been included in that list (a ‘whole deletion’), or

(ii) to such one or more (as the Authority specifies), but not all, of those awards (a ‘partial deletion’), or”.

*45. In page 30, line 8, after “name” to insert the following:

“, whether by way of a whole deletion or, as the Authority considers appropriate, by way of a partial deletion,”.

*46. In page 30, line 15, after “included” to insert “, whether by way of a whole deletion or by way of a partial deletion,”.

*47. In page 30, line 32, after “name” to insert the following:

“, whether by way of a whole deletion or by way of a partial deletion and, in the case of the latter, specifying the awards to which it is proposed the deletion will apply,”.

*48. In page 31, to delete lines 1 to 11 and substitute the following:

“(6) Where after consideration of any observations submitted to it in accordance with subsection (5)—

(a) the Authority is still of the opinion referred to in subsection (1)(a) or (b), it may, by notice in writing addressed to the awarding body—

(i) delete from the list of awarding bodies the awarding body’s name, whether by way of a whole deletion or, as the case may be, by way of a partial deletion (being the partial deletion as notified to that body under subsection (4)), or

[SECTION 22]

- (ii) vary, in particular respects, the conditions that stand imposed on the awarding body under section 55F(7)(f), or
- (b) in a case in which the original opinion was that referred to in subsection (1)(a) and the Authority is now of the opinion that the awarding body's name should be deleted from the list of awarding bodies by way of—
 - (i) a partial deletion (rather than by way of a whole deletion), or
 - (ii) a partial deletion as respects a lesser number of awards than had been notified to that body under subsection (4),

it may, by notice in writing addressed to the awarding body, delete from that list the body's name by way of a partial deletion consonant with what is described in subparagraph (i) or, as the case may be, subparagraph (ii),

and that deletion (of whatever kind) or variation shall be expressed to take effect from such date (not being earlier than the date of service of the notice) as the Authority considers appropriate and specifies in the notice.”.

- *49. In page 31, line 25, after “name” to insert “(whether by way of a whole deletion or by way of a partial deletion)”.
- *50. In page 31, line 32, after “section 55H(6),” to insert “(in whatever of the ways there provided)”.
- *51. In page 31, line 35, to delete “subsection (2)” and substitute “subsections (2) and (3)”.
- *52. In page 31, between lines 35 and 36, to insert the following:

“(2) If the name of the awarding body concerned has been deleted, under subsection (6) of section 55H, by way of what is referred to in that subsection (in whatever provision of it) as a ‘partial deletion’, then subsection (1) shall not have effect in relation to any award as respects which that partial deletion does not apply.”.

- *53. In page 31, line 36, to delete “(2) If” and substitute the following:

“(3) Without prejudice to subsection (2), if”.

SECTION 24

- *54. In page 32, line 29, after “providers” to insert “(other than associated providers)”.
- *55. In page 33, lines 11 and 12, to delete “relevant, linked or associated” and substitute “relevant or linked”.
- *56. In page 33, line 12, to delete “relevant, linked or associated” and substitute “relevant or linked”.
- 57. In page 33, to delete line 16.

—*Senator Lynn Ruane.*

[SECTION 24]

58. In page 33, line 20, to delete “appropriate.” and substitute the following:

“appropriate.”,

and

(c) in subsection (6), by the insertion of the following paragraph after paragraph (c):

“(d) minimum employment standards for English language teachers.”.

—*Senator Lynn Ruane.*

SECTION 25

59. In page 33, line 20, to delete “appropriate.” and substitute the following:

“appropriate.”,

and

(c) by the insertion of the following subsections after subsection (7):

“(8) Without prejudice to the generality of subsection (1), a code of practice established under that subsection shall specify requirements relating to compliance with quality standards for the recruitment, employment and cessation of employment of employees, and with employment law generally, by relevant providers.

(9) In specifying requirements of the type referred to in subsection (8), the Authority shall consult, in such manner as it thinks fit, with trade unions or staff associations that represent education and training staff or other employees of relevant providers.”.

—*Senators Aodhán Ó Riordáin, Ivana Bacik, Kevin Humphreys, Gerald Nash.*

***60.** In page 33, line 29, after “provider” to insert “(other than an associated provider)”.

***61.** In page 33, line 31, after “provider” to insert “to international learners”.

62. In page 34, line 4, to delete “and”.

—*Senator Lynn Ruane.*

63. In page 34, line 6, to delete “section 56.” and substitute the following:

“section 56, and

(c) the provider has established procedures for demonstrating full compliance with relevant employment legislation in respect of employees employed as English language teachers.”.

—*Senator Lynn Ruane.*

64. In page 34, line 18, to delete “and” and substitute the following:

“(b) the compliance of the provider with relevant employment legislation in respect of employees employed as English language teachers, and ”.

—*Senator Lynn Ruane.*

65. In page 34, line 19, to delete “(b) other” and substitute “(c) other”

—*Senator Lynn Ruane.*

SECTION 26

66. In page 34, after line 38, to insert the following:

“Amendment of section 61 of Principal Act (Arrangements for providers of international education mark)

26. The Principal Act is amended by the insertion of the following section after section 61:

“Arrangements for providers of international education mark

61A. (1) A provider authorised to use the international education mark under section 61(7) shall comply with this section.

(2) A provider shall establish procedures for demonstrating their compliance with relevant employment legislation in respect of employees who are employed as English language teachers.

(3) Notwithstanding the generality of subsection 2, a provider shall be required to demonstrate for the duration of their authorised use of the international education mark that—

(a) no less than twenty percent of these employees are employed under contracts of indefinite duration,

(b) they are in compliance with section 9 of the Protection of Employees (Fixed-term work) Act 2003 in respect of these employees,

(c) only employees determined as self-employed under section 300 of the Social Welfare Consolidation Act 2005 are treated as self-employed for the purposes of remuneration,

(d) work performed by these employees outside of class contact hours is recognised and remunerated appropriately,

(e) that procedures have been established allowing employees to avail of all leave entitlements in accordance with the Organisation of Working Time Act 1997 and the Parental Leave Act 1997,

(f) all relevant pay scales in respect of these employees and, if applicable, increments available for experience and/or length of service have been published on the provider’s website, and

(g) any differentials in remuneration are not solely based on whether English is the first language of such an employee.

(4) If a provider cannot satisfactorily demonstrate compliance with this section to the Authority, the Authority shall refuse to authorise the use by the provider of the international education mark, giving reasons for

[SECTION 26]

the refusal.

- (5) The Authority shall publish guidelines for providers for the purposes of compliance with this section.
- (6) Nothing in this section may be construed as affecting providers in the State operating without the authorised use of the international education mark.”.”.

—*Senator Lynn Ruane.*

SECTION 27

- *67. In page 35, line 29, after “from” to insert “or on behalf of”.

SECTION 28

- *68. In page 36, line 11, to delete “following section” and substitute “following sections”.
- 69. In page 36, lines 27 to 30, to delete all words from and including “prior” in line 27 down to and including “programme” in line 30 and substitute “and prescribed at the start of the year and shall be paid in quarterly instalments thereafter”.

—*Senator Lynn Ruane.*

- 70. In page 37, between lines 25 and 26, to insert the following:

“(n) the Marino Institute of Education,”.

—*Senator Lynn Ruane.*

- 71. In page 37, between lines 25 and 26, to insert the following:

“(n) the Institute of Public Administration,”.

—*Senator Lynn Ruane.*

- *72. In page 37, line 26, to delete “or”.

- 73. In page 37, line 26, to delete “or” and substitute the following:

“(o) not-for-profit community education providers, or”.

—*Senator Lynn Ruane.*

- *74. In page 37, between lines 26 and 27, to insert the following:

“(o) Mary Immaculate College,
(p) Marino Institute of Education, or”.

- *75. In page 37, to delete line 27, and substitute “(q) a body established—”.

- 76. In page 37, to delete line 27 and substitute the following:

“(p) a body established—”.

—*Senator Lynn Ruane.*

- *77. In page 38, line 39, to delete “refund.”.” and substitute the following:

“refund.

[SECTION 28]

Existing enrolled learner protection arrangements – status and period for which such arrangements shall continue to have effect

65A. (1) In this section—

‘previous section 65’ means section 65 as it stood enacted before the relevant commencement;

‘relevant commencement’ means the date of commencement of *section 28* of the *Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2018*;

‘relevant substitution’ means the amendment, effected by *section 28* of the *Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2018*, in so far as it consists of the substitution, for the previous section 65, of a section 65.

- (2) Subject to subsection (3), any arrangements put in place under the previous section 65 by a provider (and subsisting immediately before the relevant commencement) shall, notwithstanding the relevant substitution, continue in being.
- (3) On the expiration of 3 years from the relevant commencement or such earlier date as may be appointed by order made by the Minister under subsection (4), the arrangements referred to in subsection (2) shall cease to have effect.
- (4) The Minister, after consultation with the Authority, may, by order, appoint a date (earlier than the expiration of the period of 3 years referred to in that subsection) for the purposes of subsection (3) and different such dates may be appointed by an order or orders made under this subsection by the Minister in relation to different classes of provider specified in the order or orders.”.

SECTION 30

78. In page 41, line 29, after “Minister” to insert “, having consulted with obligated providers,”.

—*Senator Lynn Ruane.*

79. In page 46, between lines 27 and 28, to insert the following:

“Amendment of Schedule 3 of Principal Act

35. The table to Schedule 3 of the Principal Act is amended by the insertion of the following:

“

10A.	Universities Act 1997	New Section 52A	<p>Insert the following new section after section 52:</p> <p style="text-align: center;">‘Title of Royal College of Surgeons in Ireland</p> <p>52A. Nothing in section 52 shall prevent the Royal College of Surgeons in Ireland from describing itself in the following</p>
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[SECTION 35]

			terms in the Irish language as <i>Coláiste Ríoga na Máinlea in Éirinn: Ollscoil Leigheas agus Eolaíochtaí Sláinte</i> or, in the English language as ‘Royal College of Surgeons in Ireland (RCSI): University of Medicine and Health Sciences’ within and outside the State.’.
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—*Senators James Reilly, Keith Swanick, Alice-Mary Higgins, Diarmuid Wilson, Robbie Gallagher, Michael McDowell, Gerald Nash, Ivana Bacik, Kevin Humphreys, Aodhán Ó Riordáin.*

TITLE

- *80.** In page 5, lines 13 and 14, to delete “a relevant provider (or an intending relevant provider)” and substitute “providers falling within a certain category (or intending such providers)”.