

# DÁIL ÉIREANN

---

## AN ROGHCHOISTE UM OIDEACHAS, BREISOIDEACHAS AGUS ÁRDOIDEACHAS, TAIGHDE, NUÁLAÍOCHT AGUS EOLAÍOCHT

## SELECT COMMITTEE ON EDUCATION, FURTHER AND HIGHER EDUCATION, RESEARCH, INNOVATION AND SCIENCE

---

*Déardaoin, 24 Márta 2022*

*Thursday, 24 March 2022*

---

Tháinig an Romhchoiste le chéile ag 10.10 a.m.

The Select Committee met at 10.10 a.m.

---

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Rose Conway-Walsh,	
Alan Farrell,	
Simon Harris (Minister for Further and Higher Education, Research, Innovation and Science),	
James Lawless,*	
Pádraig O'Sullivan,	
Marc Ó Cathasaigh,	
Donnchadh Ó Laoghaire,	
Aodhán Ó Ríordáin.	

\* In éagmais / In the absence of Deputy Jim O'Callaghan.

Teachta / Deputy Paul Kehoe sa Chathaoir / in the Chair.

**Higher Education Authority Bill 2022: Committee Stage**

**Chairman:** No apologies have been received. I remind members and officials to ensure their mobile phones are switched off for the duration of the meeting as they interfere with the broadcasting equipment, even when on silent mode. The meeting has been convened to consider the Higher Education Authority Bill 2022. I remind members of the constitutional requirement that they must be physically present within the confines of Leinster House in order to participate in this session and if a vote is called. As agreed, the meeting will adjourn at 11 a.m., if not before, depending on where we are with the amendments, and will reconvene at 9.30 a.m. on Thursday, 31 March 2022.

I welcome the Minister for Further and Higher Education, Research, Innovation and Science and his officials. I remind members that should a vote be called, they must be physically present in the committee room to vote. Since other committees experienced technical issues over recent weeks, I ask for forbearance when votes are called. We are now moving to voting digitally. If a vótáil is called and a technical problem arises, the clerk will revert to conducting it in the traditional way. We will now proceed with our consideration of the Bill.

## SECTION 1

**Deputy Rose Conway-Walsh:** I move amendment No. 1:

In page 11, line 28, to delete “the Higher Education Authority Act” and substitute “Údarás um Ard-Oideachas Act”.

The reason for this amendment is that I want to delete “the Higher Education Authority Act” and substitute it with “Údarás um Ard-Oideachas Act”. This Bill and the 1971 Act create a body whose only legal name is “An t-Údarás um Ard-Oideachas”. There is no Higher Education Authority, HEA, established in the Bill or the Act, yet the údarás has referred to itself in branding exclusively as the “HEA” or “the Higher Education Authority”. Given the commitment in the Official Languages (Amendment) Act 2021 to naming new State bodies in Irish only, and as a way to reinforce the Irish language in the identity of the body responsible for the regulation and promotion of the Irish language at higher level, the Title of the Bill should reflect the actual title of the body established, following the precedent of the Údarás na Gaeltachta Act 1979. That is my rationale for the amendment.

**Deputy Donnchadh Ó Laoghaire:** Ba mhaith liom cuidiú leis an leasú mar gheall go mbeadh sé ag cloí le polasaí an Rialtais ó thaobh Billí eile. Seo ceann de na céad eagraíochtaí atá á bhunú tar éis Acht na dTeangacha Oifigiúla (Leasú) 2021 a bheith achtaithe. Ba chóir go mbeadh an teideal i nGaeilge. I support the amendment. The legislation would be incoherent if the amendment were not accepted. The organisation is the first significant organisation to see reform since the commencement of the Official Languages Act. The provision in that Act is very clear so I do not believe there is any coherent reason the official title of the organisation should not be Údarás um Ard-Oideachas. There is nothing to prevent it from referring to itself as “the Higher Education Authority” or referring to itself bilingually, but officially its title should be Údarás um Ard-Oideachas. There is no coherent argument to be made against that.

**Minister for Further and Higher Education, Research, Innovation and Science (Deputy Simon Harris):** I should flag that I am considering an amendment to section 1 for Report Stage. It does not relate to this matter, but I believe I am meant to put on record that section 1 is proposed to be revised in regard to collective citations. It is largely a technical matter but

this legislation is dealing with the Universities Act, the Technological Universities Act, the Institutes of Technology Acts and the National College of Art and Design Act 1971. Significant amendments have been made to the latter, and collective citations will now be considered by the Office of the Parliamentary Counsel.

I thank Deputies Conway-Walsh and Ó Laoghaire for the amendment. I am introducing ten amendments on Committee Stage to strengthen the role of the Irish language in this legislation. I genuinely acknowledge Deputy Conway-Walsh's work on this and her highlighting the matter on Second Stage and at meetings with my officials. I also thank Conradh na Gaelige, with which I have had several significant engagements over recent weeks. There was a quite detailed meeting in my Department at which we went through a long list of ways in which the body believes we can strengthen the legislation, most of which I have been able to accommodate and facilitate. No doubt we will tease through the rest as we go through the legislation. There are to be ten Government amendments on Committee Stage to strengthen the promotion of the Irish language in this Bill.

I do not propose to accept amendment No. 1. I happy to consider the matter it further between now and Report Stage and to engage further with the Deputy on it. However, my rationale is that the Bill is replacing and amending the Higher Education Authority Act 1971. The proposal was that we would retain the same name for the 2022 legislation. The 1971 Act and this Bill refer to the Irish name, an t-Údarás um Ard-Oideachas. There are several references to "An t-Údarás". The body was established in 1971. Section 7 provides for the continuance of "An t-Údarás um Ard-Oideachas". "An t-Údarás" is defined in the Bill. The Higher Education Authority is most commonly known as the Higher Education Authority or as the HEA. It is anticipated that a proposed change of the name to the Bill could cause some confusion. There are significant references to the Irish language in the Bill. More important, there will be more references and protections as we go through Committee Stage. I understand the point being made and am happy to reflect further and engage between now and Report Stage, but I am very satisfied that the substantive amendments we are introducing to promote the Irish language within higher education will make a real and meaningful difference to the Irish language when the legislation is passed.

**Senator Rose Conway-Walsh:** I accept that and am glad we will continue this discussion, but I really believe we need to set the parameters for this. That is why I believe this amendment is really important. It would guide other amendments throughout. For that reason, I intend to press it.

Amendment put.

The Committee divided: Tá;, 3; Níl, 6.	
Tá;	Níl;
Conway-Walsh, Rose.	Farrell, Alan.
Ó Laoghaire, Donnchadh.	Harris, Simon.
Ó Ríordáin, Aodhán.	Kehoe, Paul.
	Lawless, James.
	O'Sullivan, Pádraig.
	Ó Cathasaigh, Marc.

Amendment declared lost.

**Deputy Rose Conway-Walsh:** Do I reserve the right to resubmit the amendment on Report Stage?

**Chairman:** Something similar can be brought up on Report Stage, but not this matter specifically.

**Deputy Rose Conway-Walsh:** Okay. If you do not call a vote, then you can bring it up.

Section 1 agreed to.

## SECTION 2

**Chairman:** Amendments Nos. 2, 4 and 94 are related and may be discussed together.

**Deputy Rose Conway-Walsh:** I move amendment No. 2:

In page 12, between lines 21 and 22, to insert the following:

“ “Core funding” means the Recurrent Grant Allocation Model (RGAM) used by the HEA to fund the public institutions of higher education and any model that may replace the RGAM as the HEA funding model;”.

The reason we want to insert this definition of core funding is that it is used in other amendments. It is used in amendments to section 37 and other amendments. I am open to views and input on the most appropriate definition for the commonly-used concept of core funding, but it is important that we set it aside because when we listened to witnesses who appeared before this committee regarding additional funding, core funding is integral to everything that we do. The intention of amendment No. 94 to section 37 and the reason for including the definition is to ensure that for-profit private colleges could never be eligible for core funding. It is, in effect, to make it impossible for private colleges to receive State funding in the same manner as public institutions. I limited this to core funding only, since private colleges currently receive funding in a number of ways. It is important to note, therefore, that this amendment does not change the current *status quo*. It will only ensure the continuation of the current approach to funding higher education.

**Deputy Simon Harris:** I thank the Deputy for tabling amendments Nos. 2, 4 and 94. I will deal with the two issues they relate to. I will deal with the matter of the “relevant body” in a constructive fashion and I suggest that if we need to tease through it more on Report Stage, we can do so. I am informed that the term “relevant body” is already defined in section 36(7) of the Bill in the same manner as the amendment and is already used in sections 35 and 36 of the Bill. As these amendments are linked to section 37 and they need to be considered in the context of the meaning of the proposed amendment to that section. I contend that the “relevant body” piece, as defined in amendment No. 4, is dealt with in the Bill as I have outlined.

I genuinely see what the Deputy is trying to achieve on the core funding piece. I will be very clear that there is no policy intention, nor any entitlement in the passage of this legislation, that even a designated institution automatically has a right to core funding. There is no policy intention whatsoever to provide core funding to for-profit private institutions. I take the point that the Deputy wants to legislate against that. The current provisions of section 37 of the Bill are that the HEA, with the approval of the Minister of the day, prepares and establishes the funding framework for the allocation of funding to those institutions of higher education and

other bodies that we specify in section 37(1) of the Bill.

This amendment seeks to extract, as the Deputy outlined, a subset of that framework and provide that the HEA may provide core funding to universities, technological universities, institutes of technology or the National College of Art and Design, NCAD. Without being too technical about it, it is not that the HEA “may”. The HEA already provides core funding to these institutions but it also provides core funding to a small number of other institutions that are not universities, technological universities, institutes of technology or the NCAD. I am not trying to misrepresent the Deputy as I know this is not her policy intention, but if we take this amendment as worded, the advice available to me is the National College of Ireland, NCI, for example, or Mary Immaculate College, MIC, would not be captured in that amendment. In short, we believe it is too rigid and does not provide the flexibility for the institutions that do not fit within the definition outlined by the Deputy, including MIC and NCI.

We have tried to keep section 37 at a high level in primary legislation to allow that flexibility in funding that is needed from time to time. I again acknowledge the Deputy is trying to not interfere with that flexibility. I get that but there is a concern among officials in my Department that it could be too prescriptive for scenarios that can arise from time to time where funding needs to be provided.

In summary, we believe the “relevant body” piece is already defined in the legislation, that the amendment, unintentionally, would leave out a small number of institutions that are not-for-profit, which is not the Deputy’s intention, and that it is too prescriptive an amendment to put in primary legislation.

**Deputy Rose Conway-Walsh:** I appreciate what the Minister is saying. Certainly, I would not want to exclude the institutions the Minister has named. I am seeking to make a distinction between the public higher education institutions, HEIs, and the designated institutions. My concern is that the Bill provides a pathway for private colleges to become designated institutions of higher education and that there are a number of grey areas in this. The Minister can see that is my rationale for this amendment. We need to protect the public nature of third level education throughout this Bill.

**Deputy Simon Harris:** I very much see the Deputy’s intention. I accept her bona fides on this and I am not trying to be argumentative about it. One of the purposes of the Bill, however, is to provide a pathway to become a designated institution for institutions that are not currently designated as such. We could pick a number of examples throughout the country. What if a private college wished to become a public one? People will be aware of the issue around Carlow College at present. I am not proposing this is the path it is on; I am just using it as an example. From time to time, issues can arise where institutions can look to become part of the higher education public landscape. In this legislation, we are trying to do something we have not had before, which is to define a pathway to becoming a designated institution. When I meet NCI representatives, for example, there is no doubt in my mind that it will be on this pathway. I see the Deputy and I do not disagree on that. I ask the Deputy to perhaps reflect on the policy intention she is trying to ensure between now and Report Stage. I have genuine concerns that, as currently worded, there could be unintended consequences for the flexibility we are trying to put in for a pathway to designation.

**Deputy Rose Conway-Walsh:** We agree more than disagree on what we are trying to achieve here. Others may wish to speak on this matter. I do not want the core funding to be diluted by spreading it to private institutions.

**Deputy Simon Harris:** That is not our intention.

**Deputy Rose Conway-Walsh:** I will revisit this matter at a later Stage.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 3, 9, 123 and 124 are related and may be discussed together. Amendment No. 124 is a physical alternative to amendment No. 123.

**Deputy Marc Ó Cathasaigh:** I move amendment No. 3:

In page 12, between lines 30 and 31, to insert the following:

“ “education for sustainable development” has the meaning assigned to it by UNESCO whereby Education for Sustainable Development (ESD) means empowering learners of all ages with the knowledge, skills, values and attitudes to address the interconnected global challenges we are facing, including climate change, environmental degradation, loss of biodiversity, poverty and inequality;”

I thank the Irish Development Education Association, IDEA, which is a network of more than 80 members that works to strengthen development education in Ireland and raise awareness of the crucial role development education plays in achieving the sustainable development goals, SDGs. These amendments proceed from the sustainable development goals, goal 4 in particular, which references quality education. The sub-target SDG 4.7 specifically sets out a target of 2030 to ensure all learners acquire the knowledge and skills needed to promote sustainable development and recognises the important role of education in an increased understanding of sustainable development.

While sustainable development is referenced in particular in section 47(1)(j) of the Bill, amendment No. 3 is a definitional piece because the term “sustainable development” can be fluffy, for want of a better word, poorly understood and poorly defined. In amendment No. 3, therefore, I am seeking to use a definition that is readily available. The UNESCO definition is that “Education for Sustainable Development (ESD) empowers learners of all ages with the knowledge, skills, values and attitudes to address the interconnected global challenges we are facing, including climate change, environmental degradation, loss of biodiversity, poverty and inequality.” Unfortunately, it is difficult to see a scenario whereby education of that type, and the role of higher education institutions in delivering that type of education, does not become more important in the future.

Amendment No. 3 is definitional. Amendment No. 9 is the more substantive one because it seeks to introduce within the object of an t-údarás that designated institutions of higher education have a role in “contributing to sustainable development, climate and biodiversity action, through research, innovation, leadership and governance”, I am aware that some reference is made to those goals in the lifelong and flexible learning provision in section 47. I make the argument, however, that to include it further and in a more important place in the Bill, under the objects of an t-údarás, would give it a higher role, a higher profile and increased importance.

There are two factors at play here. One is that definitional piece. If we have a definition available that defines properly what sustainable development means, then perhaps we should be using it to give it a higher profile role within the objects of an t-údarás.

Amendment No. 124 makes much more specific reference to sustainable development goal No. 4.7, which deals comprehensively with issues around sustainability education.

**Chairman:** Does Deputy Ó Ríordáin wish to come in here?

**Deputy Aodhán Ó Ríordáin:** No.

**Deputy Rose Conway-Walsh:** I am happy to support that amendment. It makes sense.

**Deputy Simon Harris:** I thank Deputies Ó Cathasaigh and Ó Ríordáin for proposing the amendments to this section, which are amendments Nos. 3, 9, 123, and 124. The short answer is I am happy to work with the Deputies between now and Report Stage to see how we can strengthen the legislation in respect of this matter. As is often the case on Committee Stage, we can highlight all of the reasons we cannot do it exactly as it is outlined here. That is a normal part of the back and forth. I will work with the Deputies between now and Report Stage to see how we can try to achieve what the Deputies are endeavouring to do here.

On amendment No. 9, we contend there is already an object in the Bill, as the Deputy has acknowledged, relating to environmental development and sustainability. Under section 8, objects of an t-údarás, subsection (1)(b) provides that an t-údarás should have regard to this object in performing its functions: “to support designated institutions of higher education in contributing to social, economic, cultural (including the promotion and use of the Irish language) and environmental development and sustainability through leadership, innovation and agility”. Environmental development and sustainability are stated as part of the objects of the Higher Education Authority, which is important to say. We would want to tease through what amendment No. 9 is doing that the object is not already achieving.

On some of the other amendments, there is a view we should not be overly prescriptive or detailed in primary legislation, because even for things that seem to last such a long time, the world can change so fast and primary legislation does not. Definitions and goals can change from time to time. We believe the reference to sustainable development is deemed sufficient and the provisions outlined in these amendments could be incorporated in these provisions when they are operationalised. For the record, I also note that, under section 126, guidelines codes and policies can be issued to the designated institutions of higher education by the Higher Education Authority. The HEA can issue guidelines codes and policies on sustainable development, including how this would link to lifelong and flexible learning. The legislation is enabling the HEA to do things it has not been able to do before around guidelines, codes of practice and the like. There is no doubt sustainable development is an area in which the HEA needs to be active. I propose to work with Deputies between now and Report Stage.

**Chairman:** Does Deputy Ó Cathasaigh wish to withdraw amendment No. 3 or proceed?

**Deputy Marc Ó Cathasaigh:** I will speak briefly on it, if I may. I am happy the Minister is prepared to work with me in developing that definition in particular. It is one of these terms that can be almost universally applied and very often ill-understood. On the basis the Minister is happy to look at it between now and Report Stage, I am happy to withdraw the amendment at this time.

Amendment, by leave, withdrawn.

**Chairman:** I propose the select committee reconvene at 9.30 a.m. on Thursday, 31 March to continue its Committee Stage consideration of the Higher Education Authority Bill 2022.

Progress reported; Committee to sit again.

SEFHERIS

The select committee adjourned at 10.56 a.m. until 9.30 a.m. on Thursday, 31 March 2022.