



Number 16 of 1992

REGIONAL TECHNICAL COLLEGES ACT 1992

REVISED

Updated to 24 April 2018

This Revised Act is an administrative consolidation of the *Regional Technical Colleges Act 1992*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Telecommunications Services (Ducting and Cables) Act 2018* (4/2018), enacted 4 April 2018, and all statutory instruments up to and including *Technological Universities Act 2018 (Commencement) Order 2018* (S.I. No. 124 of 2018), made 23 April 2018, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Institutes of Technology Acts 1992 to 2006: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Institutes of Technology Act 2006* (25/2006), s. 1(4)). The Acts in this group are:

- *Regional Technical Colleges Act 1992* (16/1992)
- *Regional Technical Colleges (Amendment) Act 1994* (29/1994)
- *Regional Technical Colleges (Amendment) Act 1999* (20/1999)
- *Qualifications (Education and Training) Act 1999* (26/1999), Part IV Chapter IV and ss. 1, 2 in so far as they relate to this chapter (*repealed*)
- *Vocational Education (Amendment) Act 2001* 23/2001, s. 37 (*repealed*)
- *Institutes of Technology Act 2006* (25/2006) (25/2006), Part 2 (ss. 3-28)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1987, may be found linked from the page of the Act or statutory instrument at

Acts which affect or previously affected this revision

- *Technological Universities Act 2018* (3/2018)
- *Education and Training Boards Act 2013* (11/2013)
- *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012)
- *Ministers and Secretaries (Amendment) Act 2011* (10/2011)
- *Institutes of Technology Act 2006* (25/2006)
- *Vocational Education (Amendment) Act 2001* (23/2001)
- *Qualifications (Education and Training) Act 1999* (26/1999)
- *Regional Technical Colleges (Amendment) Act 1999* (20/1999)
- *Finance Act 1998* (3/1998)
- *Regional Technical Colleges (Amendment) Act 1994* (29/1994)

All Acts up to and including *Telecommunications Services (Ducting and Cables) Act 2018* (4/2018), enacted 4 April 2018, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Regional Technical Colleges Act, 1992 (Change of Name of College) Order 1998* (S.I. No. 19 of 1998)
- *Regional Technical Colleges Act, 1992 (Change of Name of College) Order 1997* (S.I. No. 512 of 1997)
- *Regional Technical Colleges Act, 1992 (Amendment) (No. 2) Order 1997* (S.I. No. 199 of 1997)
- *Regional Technical Colleges Act, 1992 (Amendment) Order 1997* (S.I. No. 149 of 1997)
- *Regional Technical Colleges Act, 1992 (Commencement) Order 1992* (S.I. No. 337 of 1992)
- *Social Welfare (Miscellaneous Control Provisions) (Amendment) Regulations 1992* (S.I. No. 311 of 1992)

All statutory instruments up to and including *Technological Universities Act 2018 (Commencement) Order 2018* (S.I. No. 124 of 2018), made 23 April 2018, were considered in the preparation of this revision.



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19. Preservation of contracts and continuance of legal proceedings.
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Section

- 21B. Executive functions.
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FIRST SCHEDULE

THE COLLEGES

SECOND SCHEDULE

THE GOVERNING BODY

THIRD SCHEDULE

THE DIRECTOR

ACTS REFERRED TO

European Assembly Elections Act, 1977	1977, No. 30
European Assembly Elections Act, 1984	1984, No. 6
Finance Act, 1895	1895, c. 16
Local Government (Superannuation) Act, 1980	1980, No. 8
Vocational Education Act, 1930	1930, No. 29
Vocational Education (Amendment) Act, 1944	1944, No. 9



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AN ACT TO PROVIDE FOR THE ORGANISATION AND DEVELOPMENT OF REGIONAL TECHNICAL AND OTHER COLLEGES, TO DEFINE THEIR FUNCTIONS, AND TO MODIFY THE PROVISIONS OF SECTION 7 OF THE VOCATIONAL EDUCATION (AMENDMENT) ACT, 1944, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE FOREGOING. [19th July, 1992]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Commencement. **1.**—This Act shall come into operation on such day as the Minister shall by order appoint.

Annotations

Editorial Notes:

E1 Power pursuant to section exercised (1.01.1993) by *Regional Technical Colleges Act, 1992 (Commencement) Order 1992* (S.I. No. 33 of 1992).

2. The 1st day of January, 1993 is hereby appointed as the day on which the Regional Technical Colleges Act, 1992 (No. 16 of 1992), shall come into operation.

Interpretation. **2.**—(1) In this Act—

“academic council” has the meaning assigned to it by *section 10* of this Act;

F1[‘An tÚdarás’ means An tÚdarás umArd-Oideachas;]

F2[‘college’ means an institution of higher education declared by *paragraph (a)* of *section 3(1)* (as amended by the Institutes of Technology Act 2006) to be a college to which this Act applies and, in relation to the Cork Institute of Technology, includes a school of that college declared to be such under of that subsection;]

“course of study” means a course of study, instruction or training leading to an educational award by the National Council for Educational Awards, an university in the State or such other certifying authority as may be approved by the Minister from time to time;

“the Director” in relation to a college, means the person appointed under *section 9* of this Act to be the Director of the college;

F3[‘education and training board’ in relation to a college, means the education and training board in whose education and training board area the college is situated;]

F4[‘education and training board’ means an education and training board established under the Education and Training Boards Act 2013;]

“establishment” and “establishment date” refer, in the case of a regional technical college established by *section 3 (1)* of this Act, to the commencement of this Act and, in the case of a college established by order under *section 3 (2)* of this Act or an educational institution or part of such an institution which by order under *section 3 (3)* of this Act forms part of a college, to the commencement of the order;

“functions” includes powers and duties;

“governing body”, in relation to a college, means the governing body of the college established by *section 6* of this Act;

“graduate” means a person on whom there has been conferred or who has been granted or given an educational award on successful completion of a course of study at a college;

“local authority” means the council of a county, the council of a county or other borough or the council of an urban district;

“the Minister” means the Minister for Education;

F5[...]

(2) A reference in this Act to the performance of functions includes a reference to the exercise of powers and the performance of duties.

(3) A reference in this Act to a subsection is to a subsection of the section in which the reference is made unless the contrary is indicated.

Annotations

Amendments:

- F1** Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 3(a), S.I. No. 36 of 2007.
- F2** Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 3(b), S.I. No. 36 of 2007.
- F3** Inserted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1)(a) and sch. 6 item 12, S.I. No. 211 of 2013.
- F4** Substituted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 80(a), S.I. No. 124 of 2018.
- F5** Deleted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1)(b) and sch. 6 item 12, S.I. No. 211 of 2013.
- F6** Inserted by *Technological Universities Act 2018* (3/2018), s. 80(b), not commenced as of date of revision.

Modifications (not altering text):

- C1** Prospective affecting provision: definitions inserted by *Technological Universities Act 2018* (3/2018), s. 80(b), not commenced as of date of revision.

F6[‘regulations of the college’ means rules made by the governing body under paragraph 12 of the Second Schedule;

‘student’ means a person registered as a student by the college or a full-time officer of the student union who was first elected or appointed to his or her office while he or she was registered as a student by the college;

‘student union’ means the student union or other student representative body recognised by the college;]

Editorial Notes:

- E2** Previous affecting provision: definition of “education and training board” inserted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1)(a) and sch. 6 item 12, S.I. No. 211 of 2013; substituted as per F-note above.

Establishment of colleges.

3.—F7[(1)(a) Each institution of higher education specified in *column (1)* of the *First Schedule* is declared to be a college to which this Act applies and shall, subject to *subsection (4)*, continue to bear, and to be known by, the name in the Irish language or in the English language by which it is referred to in that Schedule.

(b) Coláiste Ealaíne agus Deartha Crawford (Crawford College of Art and Design), Ceol-Scoil Chorcaí (Cork School of Music) and Coláiste Náisiúnta Mara na hÉireann (National Maritime College of Ireland) are declared to be schools of the Cork Institute of Technology and each of them shall continue to bear, and to be known by, the name in the Irish language or in the English language by which it is referred to in this paragraph.

(c) (i) Coláiste Turasóireachta Na Cealla Beaga (Tourism College Killybegs) is declared to be a school of the Letterkenny Institute of Technology and it shall continue to bear, and to be known by, the name in the Irish language or the English language by which it is referred to in this paragraph, or by such other name as the governing body, subject to the consent of the Minister, may determine.

(ii) Every person who, immediately before the commencement of this paragraph, is—

(I) an employee of County Donegal Vocational Education Committee, and

(II) working for the college referred to in subparagraph (i),

shall, on such commencement, become and be a member of the staff of Letterkenny Institute of Technology and shall not, while in the service of that college, receive less remuneration or be subject to less beneficial conditions of service than the remuneration approved by the Minister with the concurrence of the Minister for Finance to which that person was entitled and the conditions of service approved by the Minister to which the person was subject before such commencement.]

(2) F8[...]

(3) F9[...]

(4) The Minister may, following consultation with the governing body of a college, by order change the name of the college in the *First Schedule* and amend the said Schedule accordingly.

(5) A college shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

Annotations

Amendments:

- F7** Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 4(a), S.I. No. 36 of 2007.

F8 Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 4(b), S.I. No. 36 of 2007.

F9 Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 4(b), S.I. No. 36 of 2007.

Editorial Notes:

E3 Previous affecting provision: subs. (2) substituted (11.06.2001) by *Qualifications (Education and Training) Act 1999* (26/1999), s. 32(a), S.I. No. 418 of 2001; substituted as per F-note above.

E4 Previous affecting provision: subs. (1) amended (6.07.1999) by *Regional Technical Colleges (Amendment) Act 1999*(20/1999), s. 4(1)(a), commenced on enactment; substituted as per F-note above.

E5 Previous affecting provision: power pursuant to subs. (4) exercised (28.01.1998) by *Regional Technical Colleges Act, 1992 (Change of Name of College) Order 1998* (S.I. No. 19 of 1998); sch. 1 substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 24, S.I. No. 36 of 2007.

E6 Previous affecting provision: power pursuant to subs. (4) exercised (18.12.1997) by *Regional Technical Colleges Act, 1992 (Change of Name of College) Order 1997* (S.I. No. 512 of 1997); sch. 1 substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 24, S.I. No. 36 of 2007.

E7 Previous affecting provision: power pursuant to subs. (4) exercised (7.05.1997) by *Regional Technical Colleges Act, 1992 (Amendment) (No. 2) Order 1997* (S.I. No. 199 of 1997), in effect as per art. 1(2); sch. 1 substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 24, S.I. No. 36 of 2007.

E8 Previous affecting provision: power pursuant to subs. (2) exercised (1.04.1997) by *Regional Technical Colleges Act, 1992 (Amendment) Order 1997* (S.I. No. 149 of 1997), in effect as per art. 1(2); sch. 1 substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 24, S.I. No. 36 of 2007.

F10[Appointment of committee to advise An tÚdarás. **3A.F11**[...]]

Annotations

Amendments:

F10 Inserted (11.06.2001) by *Qualifications (Education and Training) Act 1999* (26/1999), s. 32(b), S.I. No. 418 of 2001.

F11 Repealed (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 5, S.I. No. 36 of 2007.

Membership of colleges.

4.—(1) The members of a college shall be—

- (a) the members of the governing body,
- (b) the members of the academic council,
- (c) the members of the staff,
- (d) the registered students of the college,
- (e) the graduates of the college,
- (f) such other persons as the governing body may appoint to be members.

(2) Membership of a college under subsection (1) (f) shall continue until the governing body otherwise declares.

Functions of colleges.

5.—(1) The principal function of a college shall, subject to the provisions of this Act, be to provide vocational and technical education and training for the economic, technological, scientific, commercial, industrial, social and cultural development of the State with particular reference to the region served by the college, and, without prejudice to the generality of the foregoing, a college shall have the following functions—

(a) to provide such courses of study as the governing body of the college considers appropriate;

(b) F12[...]

F13[(bb) F12[...]]

(c) subject to such conditions as F14[An tÚdarás] may determine, to engage in research, consultancy and development work and to provide such services in relation to these matters as the governing body of the college considers appropriate;

(d) to enter into arrangements with other institutions in or outside the State for the purpose of offering joint courses of study and of engaging jointly in programmes of research, consultancy and development work in relation to such matters as the governing body of the college considers appropriate;

F15[(e) in relation to any of the following companies or undertakings and in accordance with the following law, namely—

(i) a limited liability company in the State — in accordance with the Companies Acts, or

(ii) a company or undertaking (the liability of members of which is limited) in a state other than the State — in accordance with the law of that state, to—

(I) promote and take part in the formation of it,

(II) acquire, hold or dispose of shares or other interests in its capital, or

(III) participate in the management or direction of it,

but only if the objects of the company or undertaking include the carrying on of such business, trading or other activities, as the college thinks fit, for the purpose of promoting or assisting in the performance of, or in connection with, the functions of the college;]

(f) to institute and, if thought fit, to award scholarships, prizes and other awards;

(g) to maintain, manage, administer and invest all the money and assets of the college;

(h) to accept gifts of money, land or other property upon such trusts and conditions, if any, as may be specified by the donors: provided that nothing in any such trust or condition is contrary to the provisions of this Act;

(i) subject to the approval of F16[An tÚdarás,] to acquire land;

(j) to do all such acts and things as may be necessary to further the objects and development of the college.

(2) F17[...]

Annotations**Amendments:**

- F12** Deleted (5.11.2012) by *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012), s. 86 and sch. 3 item 3.
- F13** Inserted (11.06.2001) by *Qualifications (Education and Training) Act 1999* (26/1999), s. 32(c), S.I. No. 418 of 2001.
- F14** Substituted (1.02.2007) by *Institutes of Technology Act* (25/2006), s. 6(a)(i), S.I. No. 36 of 2007.
- F15** Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 6(a)(ii), S.I. No. 36 of 2007.
- F16** Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 6(a)(iii), S.I. No. 36 of 2007.
- F17** Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 6(b), S.I. No. 36 of 2007.

Editorial Notes:

- E9** Previous affecting provision: subs. (1)(e) deleted by *Vocational Education (Amendment) Act 2001* (23/2001), s. 37(a), not commenced; substituted as per F-note above.
- E10** Previous affecting provision: subs. (2A) inserted by *Vocational Education (Amendment) Act 2001* (23/2001), s. 37(b), not commenced; section repealed (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 55, S.I. No. 36 of 2007.
- E11** Previous affecting provision: subs. 5(1)(bb) inserted (11.06.2007) by *Qualifications (Education and Training) Act 1999* (26/1999), s. 32(c); deleted as per F-note above.
- E12** Previous affecting provision: subs. (1)(b) substituted (11.06.2001) by *Qualifications (Education and Training) Act 1999* (26/1999), s. 32(c), S.I. No. 418 of 2001; deleted as per F-note above.

F18 [Academic freedom.

5A.—(1) A college, in performing its functions, shall have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs.

(2) A member of the academic staff of a college shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the college, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the college, for the exercise of that freedom.]

Annotations**Amendments:**

- F18** Inserted (1.02.2007) by *Institutes of Technology Act 2006* (26/2006), s. 7, S.I. No. 36 of 2007.

Governing bodies. **6.—(1)** There shall be a governing body of a college and the governing body, save as otherwise provided by this Act, shall perform the functions conferred on the college by this Act.

(2) The governing body of a college shall consist of—

(a) a chairman and 17 ordinary members, and

(b) the Director of the college.

(3) The first members (other than the chairman and the Director) of the governing body of a college shall be persons appointed by the Minister on the recommendation of the vocational education committee and the ordinary members shall be recommended in accordance with the provisions of *subsection (4) (a), (b), (f) and (g)* together with five other persons nominated by the Minister as ordinary members and shall hold office for a period of one year from the date of their appointment.

F19[(4) Upon the expiration of the term of office of a governing body, the ordinary members shall be appointed by the Minister, on the recommendation of the vocational education committee, in accordance with the following provisions:

- (a) six persons of whom at least three shall be members of a local authority shall be nominated by the vocational education committee;
- (b) if the region served by the college includes all or part of the functional area of one or more than one vocational education committee other than the vocational education committee in whose functional area the college is situated, the Minister may direct that one or more, but not more than four in all, of the persons to whom *paragraph (a)* relates, shall be nominated by such of those other committees as the Minister may specify;
- (c) two persons, one of whom shall be a woman and one a man, being members of the academic staff of the college who are employed on a permanent, full-time basis or who are required, during the period beginning on the 1st day of September preceding the election and ending on the following 31st day of August, to teach not less than 280 time-tabled hours in the college, or such other number of hours as the Minister may from time to time specify, shall be elected by that staff in accordance with regulations made by the governing body;
- (d) one person, being a member of the staff (other than the academic staff) of the College who are employed on a permanent, full-time basis or who are required, during the period beginning on the 1st day of September preceding the election and ending on the following 31st day of August, to work not less than 50 per cent. of the number of hours which a full-time member of such staff is required to work, shall be elected by that staff in accordance with regulations made by the governing body;
- (e) two persons, one of whom shall be a woman and one a man, being registered students of the college, shall be chosen in accordance with regulations made by the governing body; and for the purposes of this provision registered students shall include full-time officers of the Students Union or other student representative body recognised by the governing body for that purpose;
- (f) one person shall be nominated by the Irish Congress of Trade Unions;
- (g) five persons shall be nominated by the vocational education committee from among persons nominated to that committee by such organisations as the college, on the recommendation of the academic council considers require representation having regard to the particular courses provided by the college, excluding interests otherwise represented on the governing body. Such organisations shall be representative of industry, agriculture, commerce, the professions and other interests as appropriate to the activities of the college.]

(5) In making appointments to a governing body pursuant to *subsection (4)* of this section the Minister shall have regard to the extent to which each sex is represented and shall ensure an appropriate gender balance as determined by the Minister from time to time.

- (6) (a) If a member of the governing body of a college (other than the chairman or the Director) dies, resigns, retires or is otherwise removed from office pursuant to this Act before the expiration of that member's term of office, the vacancy so caused shall be filled by the appointment to the governing

body by the Minister of a person recommended by the F20[education and training board] nominated in the same manner as was the person occasioning the vacancy.

(b) A person appointed to be a member of a governing body pursuant to *paragraph (a)* of this subsection shall, unless such person sooner dies, resigns or becomes disqualified from holding office, hold office for the remainder of the term of office of the member of the governing body occasioning the vacancy.

(7) The provisions of the *Second Schedule* to this Act shall apply to a governing body.

Annotations:

Annotations

Amendments:

- F19** Substituted (2.12.1994, with provisions of para. (c) applying to any elections held with effect from 1.04.1994) by *Regional Technical Colleges (Amendment) Act 1994* (29/1994), s. 4(3), (4), commenced on enactment.
- F20** Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 12, S.I. No. 211 of 2013.
- F21** Substituted by *Technological Universities Act 2018* (3/2018), s. 82(1), not commenced as of date of revision. Subs. (2) provides that this amendment shall not apply until the date that is 12 months after the date of the coming into operation of subs. (1), (in this subsection referred to as the “effective date”) and members of a governing body standing appointed immediately before that coming into operation shall continue to so stand, notwithstanding that their term of office was due to expire before the effective date, as such members until the effective date when their appointment shall cease. Note exception in s. 83(7)(b), which provides that for the purposes of the elections and appointments under s. 83, that amendment shall, notwithstanding s. 82(2), be taken to apply immediately on the coming into operation of s. 82. Note also restriction on operation of amended section in 3/2018, s. 83(7)(a), which provides that s. 83 applies notwithstanding the new version of s. 6 when commenced.

Modifications (not altering text):

- C2** Prospective affecting provision: section substituted by *Technological Universities Act 2018* (3/2018), s. 82(1), not commenced as of date of revision.
- F21**[6. (1) A college shall have a governing body established under this Act to perform the functions of the college under this Act.
- (2) The *Second Schedule* shall apply to the governing body.
- (3) The governing body, having not fewer than 12 and not more than 20 members, shall consist of—
- (a) the Director,
 - (b) a chairperson (in this section and the *Second Schedule* referred to as the ‘chairperson’), who shall be an external member, appointed by the governing body,
 - (c) at least one but not more than 3 members of the academic staff of the college, the number of whom shall be determined, and who shall be elected, by the academic staff of the college,
 - (d) one member of the non-academic staff of the college, elected by the non-academic staff of the college,
 - (e) at least one but not more than 2 undergraduate students of the college, the number of whom shall be determined, and who shall be nominated, by the student union in accordance with its own procedures,

- (f) one post-graduate student of the college, nominated by the student union in accordance with its own procedures,
 - (g) at least 3 but not more than 8 external members, at least one of whom has expertise in standards and practice in higher education outside the State, nominated by a committee of the governing body comprising the chairperson and 2 other external members of the governing body formed for that purpose,
 - (h) 2 external members nominated by the Minister, and
 - (i) one external member nominated, in accordance with its or their own procedures, by the education and training board or boards in whose education and training board area the campuses of the college are located.
- (4) (a) The term of office of a member of the governing body, other than the Director, shall not exceed 4 years and a member may not serve more than 2 consecutive terms of office.
- (b) A member of the governing body who is a student at the college shall hold office for such period, not exceeding one year, as the governing body may determine but may be re-appointed for a further period not exceeding one year.
- (5) Before appointing members under subsection (3)(g) the governing body shall agree with An tÚdarás the competencies required of such members relating to areas such as business, enterprise, industry, finance, law, corporate governance, human resources or community organisation or other areas relevant to the functions of the college.
- (6) (a) The governing body shall, for the purposes of this section, make regulations of the college relating to conduct of elections, seeking of nominations for appointment and appointment of members to the governing body.
- (b) In making regulations of the college under paragraph (a) the governing body shall have regard to the objective that at least 40 per cent of members of the governing body shall be women and at least 40 per cent shall be men.
- (7) In this section 'external member' in relation to the college means a person who is not—
- (a) the Director,
 - (b) a member of the academic council,
 - (c) a member of staff of the college, or
 - (d) a student of the college.]

C3 Application of subss. (2) and (3) restricted (6.07.1999) by *Regional Technical Colleges (Amendment) Act 1999* (20/1999), s. 5(1), commenced on enactment. Note that Vocational Education Committees were replaced by Education and Training Boards (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), part 7 and s. 72(2), S.I. Nos. 211, 212 of 2013.

Governing Body

5.—(1) This section shall, in relation to the College, have effect in lieu of subsections (2) and (3) of section 6 of the Principal Act.

(2) Subject to subsections (3) and (5), the governing body shall consist of—

- (a) a chairperson and 17 ordinary members, and
- (b) the Director of the College.

(3) The first ordinary members of the governing body shall be 12 in number or such greater number, not exceeding 17, as may be permitted in consequences of the operation of subsection (5).

(4) The first ordinary members of the governing body shall be appointed by the Minister in accordance with the following provisions:

- (a) subject to subsection (14), six persons, of whom at least three shall be members of a local authority, shall be nominated for such appointment by the County Dublin Vocational Education Committee;
- (b) one person shall be nominated for such appointment by the Irish Congress of Trade Unions;

(c) five persons shall be appointed from among persons nominated for such appointment by such organisations as the Minister considers ought to be represented (having regard to the particular courses provided by the College) on the governing body and which have been invited by the Minister to make such nominations for the purposes of this paragraph, and such organisations shall be representative of industry, agriculture, commerce, the professions, local community interests and other interests which are appropriate to the activities of the College.

(5) Whenever the governing body, as constituted in accordance with subsection (4), informs the Minister by notice in writing that it is of opinion that the number of academic staff, staff (other than academic staff) or of students of the College is sufficient to make practicable the application of one or more of paragraphs (c), (d) and (e) of section 4(1) of the Act of 1994 to the College, the Minister shall make an order applying such one or more, or all, of those paragraphs, as the case may be, to the College and the paragraph or paragraphs, so applied, shall accordingly have effect in relation to the College and the Minister shall, as soon as practicable after the commencement of the order, appoint a person or persons, as the case may be, to be a member or members of the governing body in accordance with the relevant paragraph so applied.

(6) A separate notice under subsection (5) may be given and a separate order may be made on foot of that notice in relation to each of the paragraphs (c), (d) and (e) of section 4(1) of the Act of 1994.

(7) Nothing in subsection (5) shall operate—

(a) to require an appointment to which that subsection relates to be made on the recommendation of a vocational education committee,

(b) to prevent the governing body performing the functions referred to in section 7 of the Principal Act pending the making of appointments under that subsection.

(8) In making appointments to the governing body pursuant to this section the Minister shall have regard to the extent to which each sex is represented on the governing body and shall ensure an appropriate gender balance as determined by the Minister from time to time.

(9) The first members of the governing body (other than the chairperson, the Director of the College or the persons referred to in section 4(1)(e) of the Act of 1994) shall hold office for two years.

(10) The Minister may by order extend the term of office of the first members of the governing body but an order shall not be made under this subsection extending that term of office beyond the period of five years from the date on which the persons referred to in paragraphs (a), (b) and (c) of subsection (4) were appointed as members of the governing body under that subsection.

(11) Where an order under subsection (10) is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(12) Paragraph 3(1) of the Second Schedule to the Principal Act shall have effect in relation to the first ordinary members of the governing body as if the words “on the recommendation of the vocational education committee” were omitted in each place where they occur in that provision.

(13) The ordinary members of the governing body appointed after the term of office of the first ordinary members thereof expires shall be appointed in accordance with section 4 of the Act of 1994 and the other relevant provisions of the Regional Technical Colleges Acts, 1992 and 1994.

(14) If the region likely, in the opinion of the Minister, to be served by the College includes all or part of the functional area of one or more than one vocational education committee, other than the County Dublin Vocational Education Committee, the Minister may direct that one or more than one, but not more than four in all, of the persons to whom paragraph (a) of subsection (4) relates, shall be nominated by such of those other committees as the Minister may specify.

Editorial Notes:

E13 *Regional Technical Colleges (Amendment) Act 1994* (29/1994), s. 4, which substituted subs. (4) of this section, was itself amended (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72 and sch. 6 item 16, S.I. No. 211 of 2013, by the substitution of “education and training board” for “vocational education committee” throughout the Act. Although the amendment of this section came into effect in 1994, it may have been intended that the substitution of words should carry through to subs. (4)(a), (b) and (g) of this section, replacing “vocational education committee” with “education and training board”.

F22[Functions of governing bodies.

7.—(1) The functions of the governing body of a college shall be, in pursuance of the functions of the college under section 5 but within the constraints of the college’s budget under *section 13*—

- (a) to control and administer the land and other property of the college,
- (b) to appoint the Director and such other staff as it thinks necessary for the purposes of the college, and
- (c) to perform such other functions as are conferred on it by this or any other Act.

(2) For the purpose of the appointment of the Director under *subsection (1)(b)*, the governing body shall develop such interview and other procedures as in its opinion will best ensure participation in the selection process by candidates of a high calibre from both within and outside of the college and shall publish such procedures in such manner as it considers appropriate.

(3) A governing body has, subject to this or any other Act, such powers as are necessary for the purposes of performing its functions.

(4) A governing body may, from time to time, appoint such and as many committees, consisting either wholly or partly of members of the governing body, as it thinks necessary to assist it in the performance of its functions and may assign to those committees such of its functions as it thinks fit.

(5) A committee appointed under *subsection (4)* shall operate in such manner as the governing body may direct and its acts shall be subject to confirmation by the governing body, unless the governing body otherwise directs.

(6) In performing its functions a governing body, or, where appropriate, a committee shall—

- (a) comply with such policy directions as may be issued by the Minister from time to time, including directions relating to the levels and range of programmes offered by the college,
- (b) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions,
- (c) have regard to the attainment of gender balance and equality of opportunity among the students and staff of the college and shall, in particular, promote access to education in the college by economically or socially disadvantaged persons, by persons who have a disability and by persons from sections of society significantly under-represented in the student body,
- (d) ensure as far as it can that the college contributes to the promotion of the economic, cultural and social development of the State and to respect for the diversity of values, beliefs and traditions in Irish society, and
- (e) have regard to the statutory responsibilities of other education providers.]

Annotations**Amendments:**

F22 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 8, S.I. No. 36 of 2007.

F23 Deleted by *Technological Universities Act 2018* (3/2018), s. 84, not commenced as of date of revision.

Modifications (not altering text):

C4 Prospective affecting provision: subss. (4) and (5) deleted by *Technological Universities Act 2018* (3/2018), s. 84, not commenced as of date of revision.

(4) F23[...]

(5) F23[...]

Dissolution of
governing body.

8.—(1) If—

- (a) the Minister is satisfied that the functions of the governing body of a college are not being duly and effectively discharged, or
- (b) a governing body wilfully neglects to comply with any order, direction or regulation of the Minister made or given in pursuance of the provisions of this Act, or
- (c) a governing body fails to comply with any judgment or order of any court of competent jurisdiction,

the Minister may, after consultation with F24[An tÚdarás,] by order dissolve the governing body.

(2) Whenever the Minister makes an order dissolving a governing body the Minister may appoint any body of persons as the Minister thinks fit to perform the functions of the governing body.

(3) The remuneration, if any, of every person appointed under *subsection (2)* shall be paid out of moneys provided by the Oireachtas under *section 15* of this Act.

(4) The Minister shall by order provide for the re-establishment of a governing body dissolved under *subsection (1)* and for the appointment of members thereto in accordance with *section 6* of this Act not later than one year following the dissolution and when the new governing body has been appointed the functions of the dissolved governing body shall be re-vested in the new governing body and shall cease to be functions of the body of persons appointed under *subsection (2)*.

Annotations**Amendments:**

F24 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 9, S.I. No. 36 of 2007.

Director.

9.—F25[(1) A governing body shall from time to time appoint in a whole-time capacity a person to be the chief officer of the college, and that person shall be known as the Director, or by such other title as the governing body, subject to the consent of the Minister, may determine.]

(2) The selection of the Director shall be a function of the governing body in accordance with the procedures, which shall include the composition of a selection board, determined by F26[An tÚdarás] from time to time.

(3) The provisions of the *Third Schedule* to this Act shall apply to the Director.

F27[(4)Where an office of Director becomes vacant, the governing body, after consultation with An tÚdarás, may appoint a person to perform the functions of the Director until such time as a permanent appointment to that office is made and such interim appointment may be terminated by the governing body at any time.]

Annotations

Amendments:

F25 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 10(a), S.I. No. 36 of 2007.

F26 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 10(b), S.I. No. 36 of 2007.

F27 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 10(c), S.I. No. 36 of 2007.

Editorial Notes:

E14 Previous affecting provision: subs. (4) inserted (2.12.1994) by *Regional Technical Colleges (Amendment) Act 1994* (29/1994), s. 3, commenced on enactment; substituted as per F-note above.

Academic council. **10.**—(1) Each college shall have an academic council appointed by the governing body to assist it in the planning, co-ordination, development and overseeing of the educational work of the college and to protect, maintain and develop the academic standards of the courses and the activities of the college.

(2) (a) Each governing body may by regulations made under this section provide for the membership and terms of office of the academic council.

(b) The majority of members shall be holders of academic appointments within the college and at least one shall be a registered student of the college.

(c) The members appointed to the academic council shall hold office for a period of three years and shall be eligible for reappointment.

(3) Without prejudice to the generality of *subsection (1)* the academic council shall have the following particular functions—

(a) to design, develop and assist in implementing courses of study F28[...] consistent with the functions of the college;

(b) to make recommendations to the governing body for the establishment of appropriate structures to implement the courses of study referred to at *paragraph (a)* of this subsection;

(c) to make recommendations to the governing body on programmes for research and development work;

(d) to make recommendations to the governing body for the selection, admission, retention and exclusion of students;

(e) be responsible, subject to the approval of the governing body, for making the academic regulations of the college;

(f) to propose to the governing body, subject to the requirements of the National Council for Educational Awards or any university or other authority to which *section 5 (1) (b)* applies, the form of regulations to be made by the governing

- body for the conduct of examinations and for the evaluation of academic progress;
- (g) to make recommendations to the governing body for the award of scholarships, prizes or other awards;
- (h) to make general arrangements for tutorial or other academic counselling;
- (i) to exercise any other functions, consistent with this Act, which may be delegated to it by the governing body;
- (j) to assist in implementing any regulations which may be made by the governing body concerning any of the matters aforesaid.
- (4) The academic council, with the approval of the governing body, may—
- (a) establish such and so many committees, consisting either wholly or partly of persons who are not members of the college, as it thinks proper to assist the academic council in the performance of its functions under this Act, and
- (b) determine, subject to the provisions of this Act, the functions of any committee established under *paragraph (a)* of this subsection.
- (5) The acts of a committee established under *subsection (4) (a)* shall be subject to confirmation by the governing body unless the governing body dispenses with the necessity for such confirmation.
- (6) Subject to the provisions of this Act and to the directions of the governing body, the academic council may regulate its own procedure.

Annotations

Amendments:

F28 Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 11, S.I. No. 36 of 2007.

F29 Substituted by *Technological Universities Act 2018* (3/2018), s. 85, not commenced as of date of revision.

Modifications (not altering text):

C5 Prospective affecting provision: subs. (2) substituted by *Technological Universities Act 2018* (3/2018), s. 85, not commenced as of date of revision.

F29[(2) (a) Subject to paragraphs (b), (c), (d) and (e), the governing body shall make regulations of the college in relation to the academic council, for—

- (i) the number of members,**
- (ii) procedures for selection and appointment of members,**
- (iii) eligibility for reappointment of members, and**
- (iv) the number of consecutive periods for which members may hold office.**

(b) Without prejudice to the generality of paragraph (a) —

- (i) the majority of members of the academic council shall be members of the academic staff of the college,**
- (ii) the regulations of the college under paragraph (a) shall provide for such number of students of the college, as it considers appropriate, to be members of the academic council.**

(c) The Director shall be—

- (i) an *ex officio* member of the academic council, and**

(ii) entitled to preside at all meetings of the academic council or a committee of the council at which he or she is present, but if he or she at any time chooses not to so preside, he or she shall nominate a person to preside in his or her place.

(d) Other than the Director and members of the academic council who are also students of the college, members of the academic council shall hold office for a period of 3 years and shall be eligible for reappointment.]

Editorial Notes:

E15 Transitional provision: any recommendation made, before the day appointed by order under 3/2018, s. 36 or 43, under s. 10 (3)(c) or (g) by the academic council of the dissolved body shall on or after that day, be a recommendation, under 3/2018, s. 17(3)(d) or (g), of the academic council of the technological university in respect of which the order under s. 36 or 43 is made, as provided (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 63, S.I. No. 124 of 2018.

F30[General provisions in relation to staff.

11.—(1) A college may perform such of its functions as the governing body may deem proper through or by any member of its staff.

(2) Subject to *section 12*, there shall be paid by a college to its staff, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.

(3) The payment of any remuneration, fees, allowances or expenses by a company or undertaking referred to in *section 5(1)(e)* (as amended by the *Institutes of Technology Act 2006*) to the staff of a college shall be in accordance with arrangements in that behalf entered into between the colleges and An tÚdarás.

(4) The Education Sector Superannuation Scheme (referred to in Article 2 of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001)) shall apply to a college and the members of its staff.]

Annotations

Amendments:

F30 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 13, S.I. No. 36 of 2007.

Editorial Notes:

E16 Transitional provisions in the event of the establishment of a technological university or dissolution of an applicant college made (24.04.2018) in *Technological Universities Act 2018* (3/2018), s. 64, S.I. No. 124 of 2018.

E17 Previous affecting provision: application of subs. (8) restricted (6.07.1999) by *Regional Technical Colleges (Amendment) Act 1999* (20/1999), s. 9(8), commenced on enactment; section substituted as per F-note above.

F31[Provisions in relation to certain staff.

11A.—(1)(a) A college may appoint such and so many persons to be members of the staff of the college (in addition to the Director) as, subject to the approval of An tÚdarás given with the concurrence of the Minister and the Minister for Finance, the governing body from time to time thinks proper.

F32[(b) The Minister or, at the request of the Minister, An tÚdarás, shall give notice in writing informing the governing body of the policies of the Government or the Minister relating to recruitment and selection of staff (including the Director) and the college, in recruiting or selecting staff, shall establish procedures that comply with those policies.]

(c) F33[...]

(2) Subject to *section 12*, the members of the staff of a college shall be employed on such terms and conditions as the college (subject to the approval of the Minister given with the concurrence of the Minister for Finance) from time to time determines.

(3) A college may suspend or dismiss a member of its staff, but only in accordance with procedures and subject to any conditions determined by the college, following consultations by it with recognised staff associations or trade unions; those procedures and conditions may provide for the delegation of powers relating to suspension or dismissal to the Director.

(4) *Subsection (3)* shall apply to all members of the staff of a college, except those officers to whom *subsections (3) and (4)* (inserted by the Institutes of Technology Act 2006) of *section 12* apply.]

Annotations

Amendments:

- F31** Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 13, S.I. No. 36 of 2007.
- F32** Substituted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 86(a), S.I. No. 124 of 2018.
- F33** Deleted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 86(b), S.I. No. 124 of 2018.

Editorial Notes:

- E18** Transitional provisions in relation to processes which may result in the suspension or dismissal of staff on establishment of a technological university or dissolution of an applicant college made (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 62, S.I. No. 124 of 2018.

Provisions in relation to existing staff.

- 12.—(1) (a)** Every person who, immediately before the establishment date, is employed by a vocational education committee in an institution specified in the *First Schedule* to this Act or specified in *section 3 (1) (b)* of this Act or in an educational institution or part of such an institution to which an order made under *section 3 (2) or 3 (3)* of this Act relates as an officer or servant thereof shall, on the establishment date, become and be an officer or servant of the college as appropriate.
- (b)** Every person who, immediately before the establishment date, is employed by a vocational education committee and whose work is concerned with the administration of any such institution or part of an institution and who is designated by the Minister for employment by the college shall, with effect from the establishment date, become and be an officer or servant of the college as appropriate.
- (c)** A person who, at the commencement of this Act, is employed as the Principal or the Director of an institution specified in *section 3 (1) (b)* of this Act shall, if such person so consents, be Head of one of the schools established by that provision.
- (d)** A person to whom *subsection (1)* applies shall not, while in the service of a college, receive less remuneration or be subject to less beneficial conditions of service than the remuneration approved by the Minister with the concurrence of the Minister for Finance to which that person was entitled and the conditions of service approved by the Minister to which that person was subject prior to the establishment date.

(e) The conditions of service, restrictions, requirements and obligations to which any such person was subject immediately before the establishment date shall, unless they are varied by agreement, continue to apply to that person, and shall be exercised or imposed by the college or the Director, as may be appropriate, while that person is in the service of the college.

(2) (a) The college may, following consultation with any recognised staff associations or trade unions concerned, redistribute or rearrange the duties to be performed by officers or servants to whom *subsection (1)* applies and every such officer or servant shall be bound to perform the duties allocated to that officer or servant in any such redistribution or rearrangement.

(b) A redistribution or rearrangement referred to in *paragraph (a)* of this subsection shall not be taken to be removal from or abolition of office for the purpose of any scheme or enactment relating to superannuation or compensation for loss of office.

F34[(3) F35[...]

(4) F35[...]]

Annotations

Amendments:

F34 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 14, S.I. No. 36 of 2007.

F35 Repealed (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 87(1)(a), S.I. No. 124 of 2018, subject to transitional provisions in subs. (2).

Modifications (not altering text):

C6 Certain repealed provisions retained for purposes of section (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 69(a), S.I. No. 211 of 2013.

Saver (Regional Technical Colleges Act 1992 and Dublin Institute of Technology Act 1992).

69.—Notwithstanding the repeal of sections 105, 106 and 107 of the Act of 1930, and sections 7 and 8 of the Act of 1944, by section 4 (1), those provisions shall continue to apply as if they had not been repealed for the purposes of—

(a) section 12 (amended by section 14 of the *Institutes of Technology Act 2006*) of the *Regional Technical Colleges Act 1992*, and

...

F36[Budgets.

13.—(1) A governing body shall, on or before the first day of March in each financial year or such other date as An tÚdarás may approve (which may be a date before the commencement of the financial year to which the statement relates), prepare and submit to An tÚdarás, in such form and manner as may from time to time be approved by An tÚdarás, a statement of the proposed expenditure and expected income of the college for the financial year.

(2) An tÚdarás shall, having regard to the statement submitted under *subsection (1)*, determine the amount of money to be allocated to the college for the financial year from moneys provided to An tÚdarás pursuant to section 12 of the *Higher Education Authority Act 1971*, and the amount so allocated, together with the other expected income of the college as agreed with An tÚdarás, shall be the budget of the college for the financial year.

(3) Where the budget of a college has been determined, it shall be a function of the Director, acting on the authority of the governing body, to carry it into effect.

(4) An tÚdarás may at any time, F37[on an application in that behalf being made to it by] by the governing body of a college, increase the amount of money to be allocated to the college from moneys provided to An tÚdarás.

(5) Where the Director of a college is of opinion that—

(a) the actual expenditure in a F38[...] year, or

(b) a proposed course of action,

taking into account any increased allocation under *subsection (4)*, will or is likely to result in expenditure in excess of the budget for that F38[...] year (in this section referred to as a ‘material departure from the budget’), the Director shall so inform the governing body.

(6) Where the governing body, despite being so informed, decides—

(a) in the case of *subsection (5)(a)*, not to decrease its actual expenditure, or

(b) in the case of *subsection (5)(b)*, to continue with its proposed course of action,

the Director, as soon as practicable, shall, unless he or she considers that contrary to his or her foregoing opinion a material departure from the budget will not occur, inform An tÚdarás of the decision of the governing body.

(7) Where, notwithstanding this section, a college incurs expenditure in excess of its budget that is not met from the income of the college other than the money allocated to it by An tÚdarás, that excess shall be a first charge on the budget for the next succeeding F38[...] year.

F37[(8) Subject to *subsection (9)*, a college or any company in which the college has a proprietary interest, may borrow money by means of a bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or a body of persons.]

F37[(9) An tÚdarás may, from time to time with the approval of the Minister, the Minister for Public Expenditure and Reform and the Minister for Finance, make rules to be complied with by a college in relation to any borrowing, guaranteeing or underwriting under *subsection (8)*, and any such rules, which may be amended in like manner to which they are made, shall include rules relating to—

(a) the purposes for which any proposed borrowing, guaranteeing or underwriting may be undertaken by a college,

(b) the demonstration by a college of its ability to meet the costs arising from any such borrowing, guaranteeing or underwriting,

(c) the identification of the potential for any such proposed borrowing, guaranteeing or underwriting to give rise to additional costs for the State,

(d) the requirement to obtain the prior approval of An tÚdarás before borrowing, guaranteeing or underwriting where *paragraph (c)* applies, and

(e) the provision by a college to An tÚdarás of information relating to any borrowing, guaranteeing or underwriting undertaken under *subsection (8)*.]]

F39[(10) Where An tÚdarás makes or amends rules under *subsection (9)* it shall—

(a) so notify, and furnish a copy of the rules or amendments to, the governing body of each college, and

(b) arrange for the rules or amendments to be published on the internet.]]

Annotations**Amendments:**

- F36** Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 15, S.I. No. 36 of 2007.
- F37** Substituted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 88(1)(d), (g), (h), S.I. No. 124 of 2018.
- F38** Deleted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 88(1)(e), (f), S.I. No. 124 of 2018.
- F39** Inserted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 88(1)(i), S.I. No. 124 of 2018.
- F40** Substituted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 88(1)(a), (b), S.I. No. 124 of 2018, subject to delayed application from next year beginning after coming into operation of subs. (1) as provided in subs. (2).
- F41** Inserted (1.01.2019) by *Technological Universities Act 2018* (3/2018), s. 88(1)(c), S.I. No. 124 of 2018, subject to delayed application from next year beginning after coming into operation of subs. (1) as provided in subs. (2).

Modifications (not altering text):

- C7** Prospective affecting provision: subss. (1), (2) substituted and subs. (2A) inserted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 88, S.I. No. 124 of 2018, to apply in relation to the next year beginning after the coming into operation of subs. (1), as provided by subs. (2).

13.—F40[(1) An tÚdarás shall, on or before the first day of March in each year, notify the Director of the funding (in this section referred to as ‘allocated funding’) to be provided by An tÚdarás for that year to a college, from moneys provided to An tÚdarás under section 12 of the Higher Education Authority Act 1971.]

F40[(2) The Director shall, on or before the first day of April in each year, or such other date as An tÚdarás may approve, prepare and submit following approval by the governing body, to An tÚdarás, in such form and manner as may from time to time be approved by An tÚdarás, a statement of the proposed expenditure and, other than allocated funding, expected income of the college for that year.]

F41[(2A)The allocated funding and the expected income of the college referred to in *subsection (2)*, shall be the budget of the college for that year.]

Editorial Notes:

- E19** Previous affecting provision: subs. (9) amended (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 71, s. 1(2) and S.I. No. 401 of 2011; subsection substituted as per F-note above.

Annual report
and information.

14.—F42[(1) The governing body of a college shall, as soon as may be, but not later than 3 months, after the end of each academic year, prepare and publish a report of its proceedings during that year in such form as may be determined by An tÚdarás and provide a copy of such report to An tÚdarás and the Minister.]

(2) The governing body shall supply to the Minister and to F43[An tÚdarás] such information regarding the performance of its functions as may from time to time be required.

F44[(2A) The Minister and An tÚdarás shall not require the supply of information under *subsection (2)* and An tÚdarás shall not require the supply of information under *subsection (3)*, in respect of a matter specified by the Minister under *section 20(1)*, during the period beginning on the appointment of the investigator under *section 20*

to investigate the matter and ending when the final report on the matter is furnished under *section 21(9).*]

F45[(3) A college shall supply to An tÚdarás such information as An tÚdarás may from time to time request relating to the number of persons employed by the college, their composition by grade, their terms and conditions of employment (including their remuneration, fees, allowances, expenses and superannuation) and any other related matters.]

F44[(4) The Minister may provide information supplied to him under *subsection (2)* to an investigator for the time being appointed under *section 20.*]

Annotations

Amendments:

- F42 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 16(a), S.I. No. 36 of 2007.
- F43 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 16(b), S.I. No. 36 of 2007.
- F44 Inserted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 89, S.I. No. 124 of 2018.
- F45 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 16(c), S.I. No. 36 of 2007.

Grants.

15.—F46[...]

Annotations

Amendments:

- F46 Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 17, S.I. No. 36 of 2007.

Editorial Notes:

- E20 Previous affecting provision: application of section extended (2.12.1994) by *Regional Technical Colleges (Amendment) Act 1994* (20/1999), s. 5(3); repealed as per F-note above.

F47[Keeping of accounts and records.

16.—(1) A college shall keep, in such form as may be approved by An tÚdarás, all proper and usual accounts and records of all income received or expenditure incurred by it.

(2) Accounts kept in pursuance of *subsection (1)* shall, to the extent directed by the Comptroller and Auditor General, be submitted annually by a college to the Comptroller and Auditor General, for audit, by such date as the Comptroller and Auditor General may from time to time determine, and, immediately after the audit, a copy of the accounts, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be presented by the college to An tÚdarás and to the Minister.

(3) The Minister shall cause copies of the accounts presented under this section to the Minister by the college, together with copies of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas.]

Annotations**Amendments:**

F47 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 18, S.I. No. 36 of 2007.

Fees and charges. **17.**—The college may charge fees or admission charges and such other charges of such amounts as may from time to time be determined by its governing body subject to such conditions as may be specified by the Minister from time to time for courses, lectures, examinations, exhibitions and other events held at or by the college and for other activities including research, consultancy and development work undertaken by the college.

Transfer of property and liabilities. **18.**—(1) All land which, immediately before the establishment date, stood vested in a vocational education committee or the Minister for the purposes of a college or for the purposes of an educational institution or part of such an institution to which an order made under *section 3 (3)* of this Act relates shall stand vested in the college without any conveyance or assignment and no such property or part thereof or estate or interest therein or right thereover shall be disposed of except with the approval of the Minister F48[...].

(2) On the establishment date, the following shall be and hereby are transferred to the college—

- (a) all property (other than land) and rights held or enjoyed immediately before the establishment date by the vocational education committee for or in connection with the functions of the college, or of an educational institution or part of such an institution to which an order made under *section 3 (3)* of this Act relates,
- (b) all liabilities incurred before the establishment date by the vocational education committee for the purposes of or in connection with the college or any such educational institution or part thereof that had not been discharged before the establishment date,

and, accordingly, without any further transfer or assignment—

- (i) the said property shall, on the establishment date, vest in the college but subject to all trusts and equities affecting the property and capable of being performed,
- (ii) the said rights, shall, on and from the establishment date, be enjoyed by the college,
- (iii) the said liabilities shall, on and from the establishment date, be the liabilities of the college.

(3) A college may recover from the vocational education committee such moneys as may be approved by the Minister in respect of liabilities arising under *subsection (2)* and the vocational education committee shall cause these moneys to be paid to the governing body of the college immediately upon the direction of the Minister.

(4) All moneys, stocks, shares and securities transferred to a college by this section that, immediately before the establishment date are standing in the name of the vocational education committee, shall, upon the request of the governing body of that college, be transferred into its name.

(5) Every right and liability transferred by this section to a college may, on or after the establishment date, be sued on, recovered or enforced by or against the college

in its own name and it shall not be necessary for the college to give notice to any person whose right or liability is transferred by this section of the transfer.

(6) In *subsections (1) and (2)* a reference to a college, in relation to a time before the establishment date, shall be construed as a reference to every institution or part of an institution which from such date comprised or became part of the college.

(7) F49[...]

(8) Whenever a question arises as to whether land stood vested for the purposes of a college or of an institution or part of an institution to which an order made under *section 3 (3)* of this Act relates or whenever a question arises with regard to rights and liabilities transferred by this section such question shall be referred by the vocational education committee to the Minister and the decision of the Minister thereon shall be final.

Annotations

Amendments:

F48 Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 19, S.I. No. 36 of 2007.

F49 Deleted (27.03.1998) by *Finance Act 1998* (3/1998), s. 125 and sch. 8, commenced on enactment.

Preservation of
contracts and
continuance of
legal proceedings.

19.—(1) Every contract which was entered into in relation to a college or in relation to an educational institution or part of such an institution to which an order made under *section 3 (3)* of this Act relates and is in force immediately before the establishment date between the vocational education committee and any person shall continue in force on and after the establishment date, but shall be construed and have effect as if the college were substituted therein for the vocational education committee and every such contract shall be enforceable by or against the college accordingly.

(2) Where, immediately before the establishment date, any legal proceedings are pending to which the vocational education committee is a party and the proceedings have reference to a college or to an educational institution or part of such an institution to which such order relates, the name of the college shall be substituted in the proceedings for that of the vocational education committee and the proceedings shall not abate by reason of such substitution.

(3) This section does not apply to any contract or proceedings in relation to land.

(4) In this section, a reference to a college, in relation to a time before the establishment date, shall be construed in accordance with *subsection (6) of section 18* of this Act.

Inspection.

F50[20. (1) Following consultation with An tÚdarás, the Minister may appoint a person (in this section referred to as an 'investigator') to carry out an investigation into any matter specified in writing by the Minister concerning the performance by a college or its governing body of its functions.

(2) The Minister shall by notice in writing inform the governing body of his or her proposal to appoint an investigator under *subsection (1)* and the matter to be investigated.

(3) A notice under *subsection (2)* shall state that the governing body may make representations to the Minister in relation to the proposed appointment not later than 14 days after the giving of the notice to the governing body.

(4) The Minister shall consider any representations made pursuant to *subsection (3)* before making an appointment under *subsection (1)*.

(5) An investigator shall be entitled at all reasonable times to enter any premises occupied by a college and shall be afforded every facility and cooperation, including access to equipment and records as the investigator may require to perform his or her functions under this section, by the following:

- (a) the Director;
- (b) a member of the governing body;
- (c) an employee of the college;
- (d) a contractor appointed by the college to perform any function on its behalf and an employee of that contractor;
- (e) a consultant or advisor appointed by the college.

(6) Each person referred to in *paragraphs (a) to (e)* of *subsection (5)* shall comply with a request of the investigator to provide such information and assistance as the investigator may reasonably require for the purposes of the investigation.

(7) As soon as practicable after the investigation, the investigator shall prepare a draft of the report on the investigation that he or she proposes to furnish to the Minister (in this section referred to as the 'draft report').

(8) The investigator shall furnish the draft report to the Minister, An tÚdarás and the governing body and may furnish the draft report, or part of the draft report, to any other person as he or she considers necessary and shall give notice to the Minister, An tÚdarás, the governing body and such other person, that they may make representations to the investigator concerning the draft report or, as the case may be, part of the draft report, not later than 28 days after it is furnished to them.

(9) As soon as practicable after the expiration of the 28 days referred to in *subsection (8)* and, having considered any representations made pursuant to that subsection, the investigator may amend the draft report and shall furnish the final report on the investigation to the Minister and An tÚdarás.

(10) In this section 'records' means any document, or any other written or printed material in any form, including information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form.]

Annotations

Amendments:

F50 Substituted (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 90, S.I. No. 124 of 2018.

Editorial Notes:

E21 Previous affecting provision: section substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 20, S.I. No. 36 of 2007; substituted as per F-note above.

Modification of section 7(5) of Vocational Education (Amendment) Act, 1944.

21.—(1) Notwithstanding the provisions of subsection (5) of section 7 of the Vocational Education (Amendment) Act, 1944, whenever an officer of a vocational education committee is suspended under section 7 of that Act the committee may, if it thinks fit, make with the consent of the Minister payments *ex-gratia* to the suspended officer

in lieu of the remuneration which, but for that suspension, would have been payable to that officer.

(2) Any sum paid under *subsection (1)* of this section shall be repayable by the officer to the vocational education committee and may be deducted from any moneys payable by the committee to that officer.

(3) Any sum paid under *subsection (1)* shall not be reckoned as salary or emolument for the purposes of the Local Government (Superannuation) Act, 1980.

(4) This section shall apply to officers of a college F51[to whom *subsections (3) and (4) (inserted by the Institutes of Technology Act 2006) of section 12 apply*] suspended under this Act as it applies to officers of a vocational education committee with the substitution, in *subsection (1)*, for “the committee may, if it thinks fit,” of “the college may, if its governing body thinks fit,” and, in *subsection (2)*, of references to the college for references to such committee.

Annotations

Amendments:

F51 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 21, S.I. No. 36 of 2007.

Editorial Notes:

E22 Transitional arrangement for continued ex gratia payments in certain circumstances made (24.04.2018) by *Technological Universities Act 2018* (3/2018), s. 87(2)(c), S.I. No. 124 of 2018.

F52[Reserved functions.

21A.—(1) Each college shall perform by resolution of its governing body such of the functions as are declared by this Act to be reserved functions and ‘reserved function’ shall in this Act be construed and have effect accordingly.

(2) The functions under *sections 5(1)(a) to (j), 7, 9, 10, 21C, 21D and 21E* are declared to be reserved functions.

(3) Any dispute as to whether or not a particular function is a reserved function shall be determined by the Minister.

(4) A Director shall assist the governing body in the performance of its reserved functions, in such manner as the governing body may require.

(5) A governing body shall not perform by resolution of its members, or give a direction in relation to the performance of, a function that is not a reserved function.]

Annotations

Amendments:

F52 Inserted (1.02.2007) by the *Institutes of Technology Act 2006* (25/2006), s. 22, S.I. No. 36 of 2007.

F53[Executive functions.

21B.—(1) Every function that is not a reserved function shall be an executive function, and ‘executive function’ shall, in this Act, be construed and have effect accordingly.

(2) Executive functions shall be performed by the Director.

(3) A Director shall provide such information to the governing body regarding the performance of his or her functions as the governing body may from time to time require.

(4) A Director shall provide such information to the Minister or An tÚdarás regarding the performance of his or her functions as the Minister or An tÚdarás, as the case may be, may from time to time require.]

Annotations

Amendments:

F53 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 22, S.I. No. 36 of 2007.

F54[Strategic development plan.

21C.—(1) A governing body shall, as soon as practicable but not later than 12 months after the commencement of this section and at such other times as it thinks fit, require the Director to prepare a plan (in this Act referred to as a ‘strategic development plan’) that shall set out the aims of the governing body for the operation and development of the college and its strategy for achieving those aims, and for carrying out the functions under this Act, during the period, being not less than three years, to which the plan relates.

(2) A governing body may either approve the strategic development plan prepared without modification or, after consultation with the Director, approve the plan with such modifications as it thinks fit; in exercising its powers under this subsection the governing body shall have regard to the resources available to the college.

(3) As soon as practicable after it approves the strategic development plan under subsection (2), the governing body shall provide a copy of the plan to An tÚdarás and to the Minister.]

Annotations

Amendments:

F54 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 22, S.I. No. 36 of 2007.

F55[Equality policy.

21D.—(1) A governing body shall, as soon as practicable but not later than 12 months after the commencement of this section and at such other times as it thinks fit, require the Director to prepare a statement of the policies of the college in respect of—

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

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

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

(2) A governing body may either approve the statement prepared under *subsection (1)* without modification or, after consultation with the Director, approve the statement with such modifications as it thinks fit; in exercising its powers under this subsection the governing body shall have regard to the resources available to the college.

(3) A college shall implement the policies set out in the statement as approved under *subsection (2)*.]

Annotations**Amendments:**

F55 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 22, S.I. No. 36 of 2007.

F56[Dispute
resolution.

21E.—(1) A governing body shall establish procedures for the resolution of disputes that arise in the college.

(2) *Subsection (1)* shall not apply to industrial relations disputes, which shall be dealt with through normal industrial relations structures operating in the college.

(3) Procedures established under *subsection (1)* shall—

(a) be embodied in writing,

(b) be established following consultation with recognised staff associations and trade unions representing the staff of the college and with the students union or other student representative body, and

(c) provide for consideration of issues in dispute by an independent person or persons, as appropriate.]

Annotations**Amendments:**

F56 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 22, S.I. No. 36 of 2007.

F57[Reviews.

21F.—An tÚdarás may review—

(a) the strategic development plan prepared in accordance with *section 21C*, and

(b) the policies set out in the statement prepared under *section 21D* and their implementation by the college,

and may, following consultation with the college, publish a report, in such form and manner as it thinks fit, on the outcome of any such review.]

Annotations**Amendments:**

F57 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 22, S.I. No. 36 of 2007.

Expenses.

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

Regulations.

23.—(1) The Minister may make such regulations with regard to the operation of the colleges as the Minister may from time to time see fit.

(2) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if either such House, within the next twenty-one days on which that House has sat after such regulation is laid before it, passes a resolution annulling the regulation or any part

of it, the regulation or such part thereof shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

F58[Effect of
certain orders.

23A.—(1) Each order made under *section 3* shall, during the relevant period, be deemed always to have been valid.

(2) In this section ‘relevant period’ means the period beginning on the making of the order concerned referred to in *subsection (1)* and ending on the commencement of *section 4* of the Institutes of Technology Act 2006.]

Annotations

Amendments:

F58 Inserted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 23, S.I. No. 36 of 2007.

Short title.

24.—This Act may be cited as the Regional Technical Colleges Act, 1992.

FIRST SCHEDULE

THE COLLEGES

F59[Name of College. (1)]	(2)
Institiúid Teicneolaíochta Bhaile Átha Luain. Athlone Institute of Technology.	F60[...]
Institiúid Teicneolaíochta, Baile Bhlainséir. Institute of Technology, Blanchardstown.	F60[...]
Institiúid Teicneolaíochta, Ceatharlach. Institute of Technology, Carlow.	F60[...]
Institiúid Teicneolaíochta Chorcaí. Cork Institute of Technology.	F60[...]
Institiúid Teicneolaíochta Dhún Dealgan. Dundalk Institute of Technology.	F60[...]
Institiúid Ealaíne, Deartha agus Teicneolaíochta Dhún Laoghaire. Dún Laoghaire Institute of Art, Design and Technology.	F60[...]
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo. Galway-Mayo Institute of Technology.	F60[...]
Institiúid Teicneolaíochta Leitir Ceanainn. Letterkenny Institute of Technology.	F60[...]
Institiúid Teicneolaíochta Luimnigh. Limerick Institute of Technology.	F60[...]
Institiúid Teicneolaíochta, Sligeach. Institute of Technology, Sligo.	F60[...]
Institiúid Teicneolaíochta, Tamhlacht. Institute of Technology, Tallaght.	F60[...]
Institiúid Teicneolaíochta, Trá Lí. Institute of Technology, Tralee.	F60[...]
Institiúid Teicneolaíochta Phort Láirge. Waterford Institute of Technology.	F60[...]

Annotations**Amendments:**

F59 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 24, S.I. No. 36 of 2007.

F60 Deleted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 12, S.I. No. 211 of 2013.

Editorial Notes:

- E23** Previous affecting provision: schedule amended (6.07.1999) by *Regional Technical Colleges (Amendment) Act 1999* (20/1999), s. 4(2)(a), (b); schedule substituted as per F-note above.
- E24** Previous affecting provision: schedule amended (28.01.1998) by *Regional Technical Colleges Act 1992 (Change of Name of College) Order 1998* (S.I. No. 19 of 1998), art. 3; substituted as per F-note above.
- E25** Previous affecting provision: schedule (18.12.1997) by *Regional Technical Colleges Act 1992 (Change of Name of College) Order 1997* (S.I. No. 512 of 1997), art. 2(2); substituted as per F-note above.
- E26** Previous affecting provision: schedule amended (7.05.1997) by *Regional Technical Colleges Act 1992 (Amendment) (No. 2) Order* (S.I. No. 199 of 1997), art. 2(2), in effect as per art. 1(2); substituted as per F-note above.
- E27** Previous affecting provision : schedule amended (1.04.1997) by *Regional Technical Colleges Act 1992 (Amendment) Order 1997* (S.I. No. 149 of 1997), art. 2, in effect as per art. 1(2); substituted as per F-note above.

Section 6.

SECOND SCHEDULE

THE GOVERNING BODY

1. (1) As soon as may be after its establishment the governing body of a college shall provide and retain in its possession a seal of the college.

(2) The seal of a college shall be authenticated by the signature of the chairman or a member of the governing body authorised by the governing body to act in that behalf and by the signature of an officer of the college authorised to act in that behalf.

(3) Judicial notice shall be taken of the seal of a college and every document purporting to be an instrument made by a college and to be sealed with the seal (purporting to be authenticated in accordance with this Schedule) of the college shall be received in evidence and shall be deemed to be such instrument without proof unless the contrary is shown.

2. (1) Each governing body shall have a chairman who may be designated by such title as the governing body may determine.

(2) The chairman shall be appointed by the Minister and may be removed from office by the Minister.

(3) The chairman may, at any time, resign from office as chairman by letter addressed to the Minister and the resignation shall take effect from the date on which the letter is received.

(4) Subject to the provisions of this Act, the chairman shall hold office on such terms and conditions as the Minister may, at the date of the appointment, decide.

(5) F61[...]

3. (1) Every ordinary member of a governing body shall be appointed by the Minister on the recommendation of the F62[education and training board] and may be removed from office by the Minister on the recommendation of the F62[education and training board].

(2) An ordinary member may, at any time, resign from office as such member by letter addressed to the F62[education and training board] and the resignation shall take effect from the date on which the letter is received. The F62[education and training board] shall forthwith notify the Minister of the receipt of the letter.

(3) F63[...]

(4) A member of the governing body who is absent from all meetings of the governing body for a period of six consecutive months, unless such absence was due to illness or was approved by the governing body, shall be disqualified at the expiry of such period from continuing to be a member of the said governing body for the remainder of that person's term of office.

(5) A member (including the chairman) whose term of office expires by effluxion of time shall be eligible for reappointment.

4. (1) A member (including the chairman but excluding an ordinary member who is a registered student of the college) shall hold office for a period not exceeding five years.

(2) An ordinary member who is a registered student of the college shall hold office for a period of one year.

5. (1) Each governing body shall, from time to time as occasion requires, appoint from amongst its members (other than the chairman or the Director) a member to be deputy-chairman thereof.

(2) The deputy-chairman of a governing body shall, unless that member sooner resigns or ceases to be deputy-chairman under *subparagraph (3)* of this paragraph, hold office until the expiration of that member's period of office as a member of the governing body.

(3) The deputy-chairman, on ceasing to be a member of the governing body, shall thereupon cease to be deputy-chairman.

6. (1) Where a member of a governing body—

(a) is nominated as a member of Seanad Éireann, or

(b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament, or

(c) is regarded pursuant to section 13 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to the European Parliament to fill a vacancy, or

(d) is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors, or

(e) is sentenced to a term of imprisonment by a court of competent jurisdiction,

F64[or

(f) who was appointed on foot of an election by the academic staff or by the non-academic staff of the college, ceases to be a member of such staff,]

that member shall thereupon cease to be a member of the governing body.

(2) A person shall not be eligible to be a member of a governing body if that person—

(a) is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein, or

(b) is for the time being a member of the European Parliament, or

(c) is an undischarged bankrupt, or

(d) within the immediately preceding three years has, under the protection or procedure of a court, made a composition or arrangement with creditors, or

(e) within the immediately preceding five years, has been sentenced to a term of imprisonment by a court of competent jurisdiction.

7. (1) A member of the governing body of a college who has—

(a) any interest in any company or concern with which the college proposes to make any contract, or

(b) any interest in any contract which the college proposes to make,

shall disclose to the governing body the fact of the interest and the nature thereof and shall take no part in any deliberation or decision of the governing body relating to the contract, and the disclosure shall be recorded in the minutes of the governing body.

(2) A member of the governing body of a college who is related to a person who is a candidate for appointment by the governing body as an officer or servant of the college shall disclose to the governing body the fact of the relationship and the nature thereof and shall, if the governing body so decides, take no part in any deliberation or decision of the governing body relating to the appointment, and the disclosure and decision shall be recorded in the minutes of the governing body.

8. The chairman and ordinary members of the governing body of a college shall be paid out of funds at the disposal of the governing body such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Finance, may decide.

9. (a) A governing body shall hold such and so many meetings as may be necessary for the performance of its functions.

(b) The F65[education and training board] shall fix the date, time and place of the first meeting of the governing body.

(c) The quorum for a meeting of a governing body shall be six members.

10. At a meeting of a governing body—

(a) the chairman shall, if present, be the chairman of the meeting,

(b) if and so long as the chairman is not present or if the office of chairman is vacant, the deputy-chairman shall, if present, be chairman of the meeting,

(c) if and so long as the chairman is not present or the office of chairman is vacant, and the deputy-chairman is not present or the office of deputy-chairman is vacant, the members of the governing body who are present shall choose one of their number to be chairman of the meeting.

11. Every question at a meeting of a governing body shall be determined by a majority of the votes of members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

12. Subject to *paragraph 9 (c)* of this Schedule a governing body may act notwithstanding one or more than one vacancy among its members.

13. Subject to the provisions of this Act a governing body shall regulate, by standing orders or otherwise, its procedure and business.

14. The governing body of a college shall control and conduct the affairs of the college subject to the provisions of this Act and shall carry out all functions assigned to it by this Act, and, in particular, a governing body—

- (a) shall determine subject to such directions as the Minister may give from time to time the conditions under which persons shall be admitted to the college and to any particular course of study therein,
- (b) shall determine the conditions under which students, having been admitted to the college, may be excluded from it,
- (c) may enter into relationships or co-operate with any other institution, authority or body for any purpose of the college,
- (d) subject to *subparagraph (a)* of this paragraph may accept, in fulfilment or partial fulfilment of the requirement for entry to any course of study in the college, attendance by a student at a course or portion of a course in another college or such other institution as the governing body may decide,
- (e) F66[...] may engage such consultants or advisors as it may consider necessary for the performance of its functions and any fees payable to such consultants or advisors shall be paid by the college out of moneys at its disposal, and
- (f) may make, from time to time, such regulations as it sees fit for the conduct of the affairs of the college.

Annotations

Amendments:

- F61** Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 25(a), S.I. No. 36 of 2007.
- F62** Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 12, S.I. No. 211 of 2013.
- F63** Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 25(a), S.I. No. 36 of 2007.
- F64** Inserted (2.12.1994) by *Regional Technical Colleges (Amendment) Act 1994* (29/1994), s. 6, commenced on enactment.
- F65** Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 12, S.I. No. 211 of 2013.
- F66** Deleted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 25(b), S.I. No. 36 of 2007.
- F67** Substituted by *Technological Universities Act 2018* (3/2018), s. 91(1), not commenced as of date of revision, subject to transitional provisions in subs. (2).

Modifications (not altering text):

- C8** Prospective affecting provision: schedule substituted by *Technological Universities Act 2018* (3/2018), s. 91, not commenced as of date of revision.

F67[SECOND SCHEDULE

Section 6

THE GOVERNING BODY

- 1. (1) The governing body shall retain in its possession a seal of the college.

(2) The seal of the college shall be authenticated by the signature of the chairperson or a member of the governing body authorised by the governing body to act in that behalf and by the signature of an officer of the college authorised to act in that behalf.

(3) Judicial notice shall be taken of the seal and any document purporting to be an instrument made by, and sealed with the seal of, the college shall, unless the contrary is shown, be received in evidence and taken to be such an instrument without further proof.

2. (1) A member of the governing body, other than the Director, shall, subject to the provisions of this Act, hold office upon such terms and conditions (including terms and conditions relating to remuneration, allowances or expenses) as may be determined by the Minister, with the consent of the Minister for Public Expenditure and Reform.

(2) There may be paid by the governing body to its members, other than the Director, such allowances in respect of expenses (if any) as the Minister, with the approval of the Minister for Public Expenditure and Reform, may determine.

3. (1) A member of the governing body, other than the Director, may resign from office by giving notice in writing to the chairperson (or if the member concerned is the chairperson, to the Director) of his or her resignation and the resignation shall take effect on the day when the chairperson, or as the case may be, the Director receives the notice.

(2) Where the chairperson of the governing body resigns as chairperson he or she shall at the same time cease to be a member of the governing body.

(3) The governing body may at any time remove from office a member of the governing body if, in the opinion of the governing body—

- (a) the member has become incapable through ill-health of performing his or her functions,
- (b) the member has committed stated misbehaviour, or
- (c) the removal of the member appears to be necessary for the effective performance by the governing body of its functions.

(4) A member of the governing body shall cease to be qualified for office and shall cease to hold office if he or she—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
- (d) is convicted of any indictable offence in relation to a company or any other body corporate,
- (e) is convicted of an offence involving fraud or dishonesty,
- (f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
- (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

4. (1) If a member of the governing body, other than the Director, dies, resigns, ceases to be qualified to be or ceases for any reason, to be a member of the governing body, the governing body may appoint a person to fill the casual vacancy.

(2) A person appointed to be a member of the governing body pursuant to subparagraph (1) —

- (a) shall be representative of the person, referred to at section 6(3)(b) to (i), who occasioned the casual vacancy,
- (b) shall hold office for so much of the term of office of the member who occasioned the casual vacancy concerned as remains unexpired at the date of the appointment, and
- (c) shall be eligible for reappointment as a member of the governing body on the expiry of that term of office.

5. (1) The governing body shall hold at least 6 meetings in every 12 month period and such and so many additional meetings as may be necessary, as determined by the chairperson, for the due fulfilment of its functions.

(2) The chairperson shall convene a meeting of the governing body when requested to do so by not less than the number of members that constitutes a quorum.

(3) The quorum for a meeting of the governing body shall be set by the governing body at its first meeting and may be amended from time to time in accordance with standing orders under paragraph 11.

(4) At a meeting of the governing body it shall appoint from amongst its members a member (other than the Director) to be its deputy-chairperson and the deputy-chairperson shall, unless he or she sooner resigns as deputy-chairperson, hold office until he or she ceases to be a member of the governing body.

(5) At a meeting of the governing body—

(a) the chairperson shall, if present, be the chairperson of the meeting,

(b) if and so long as the chairperson is not present or if the office of chairperson is vacant, the deputy-chairperson, if present, shall be chairperson of the meeting, and

(c) if and so long as the chairperson is not present or the office of chairperson is vacant, and the deputy-chairperson is not present or the office of deputy-chairperson is vacant, the members of the governing body who are present shall choose one of their number to be chairperson of the meeting.

(6) Every question at a meeting of the governing body shall be determined by a majority of the votes of the members of the governing body present and voting on the question, and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(7) Subject to subparagraph (3), the governing body may act notwithstanding one or more vacancies among its members.

(8) The governing body may hold or continue a meeting by the use of any means of communication by which all the members can hear and be heard at the same time (in this Schedule referred to as an “electronic meeting”).

(9) A member of the governing body who participates in an electronic meeting is taken for all purposes to have been present at the meeting.

6. (1) The governing body may establish committees, consisting in whole or in part of persons who are members of the governing body or members of staff of the college to assist and advise it in relation to the performance of any of its functions.

(2) In appointing members of a committee established under this paragraph, the governing body shall have regard to—

(a) the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and

(b) the objective that at least 40 per cent of members of the committee shall be women and at least 40 per cent shall be men.

(3) The governing body may pay to members of a committee established under this paragraph such expenses incurred by them as the governing body may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine.

(4) The governing body may remove a member of a committee established under this paragraph from the committee at any time.

(5) The acts of a committee shall be subject to confirmation by the governing body, unless the governing body otherwise determines.

(6) The governing body may determine the terms of reference and regulate the procedure of a committee established under this paragraph.

(7) The governing body may appoint a person to be chairperson of a committee established under this paragraph.

(8) A committee shall provide the governing body with such information as the governing body may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the governing body of its functions.

(9) The governing body may at any time dissolve a committee established under this paragraph.

7. (1) Where a member of the governing body is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the governing body.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a representative in the European Parliament shall be disqualified, while he or she is so entitled or is such a representative, from being a member of the governing body or a member of a committee established under paragraph 6.

8. (1) Subparagraph (2) applies where, at a meeting of the governing body, any of the following matters arise, namely—

- (a) an arrangement to which the governing body is a party,
- (b) an arrangement to which the governing body proposes to become a party,
- (c) a contract or other agreement with the governing body, or
- (d) a proposed contract or other agreement with the governing body.

(2) A member of the governing body present at the meeting referred to in subparagraph (1) who has a pecuniary interest or other beneficial interest in, or material to, the matter concerned shall—

- (a) disclose to the governing body at the meeting the fact of that interest and its nature,
- (b) not influence (or seek to influence) a decision to be made in relation to the matter,
- (c) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
- (d) take no part in any deliberation of the governing body relating to the matter, and
- (e) not vote on a decision relating to the matter.

(3) Where an interest is disclosed pursuant to this paragraph, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member of the governing body by whom the disclosure is made shall not be counted in the quorum for the meeting.

(4) Where, at a meeting of the governing body, a question arises as to whether or not a course of conduct, if pursued by a member of the governing body, would constitute a failure by him or her to comply with the requirements of subparagraph (2), the question may, subject to subparagraph (5), be determined by the chairperson of the meeting, whose decision shall be final, and where the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(5) Where, at a meeting of the governing body, the chairperson of the meeting is the member in respect of whom a question to which subparagraph (4) applies falls to be determined, the other members of the governing body attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

(9) Paragraph 8 shall apply to a member of a committee established under paragraph 6 where the member is not also a member of the governing body and for the purposes of that application—

(a) a reference to a member of the governing body shall be construed as reference to a member of the committee, and

(b) a reference to the governing body shall be construed as reference to the committee.

10. (1) A person shall not disclose confidential information obtained by him or her while performing functions as—

(a) a member of or an adviser or consultant to the governing body, or a member of the staff of such an adviser or consultant, or

(b) a member of a committee established under paragraph 6, unless he or she is authorised by the governing body to so do.

(2) A person who contravenes subparagraph (1) commits an offence.

(3) Nothing in this paragraph shall prevent the disclosure of information—

(a) in a report made to the governing body,

(b) by or on behalf of the governing body to the Minister,

(c) by a member of the governing body to the Minister, or

(d) by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995.

(4) In this paragraph 'confidential information' includes—

(a) information that is expressed by the governing body to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) information relating to proposals of a commercial nature or tenders submitted to the governing body by contractors, consultants or any other person.

(11) Subject to this Act, the governing body shall regulate, by standing orders or otherwise, its procedure and business.

(12) Subject to this Act, the governing body may make, amend or revoke rules (in this Act called 'regulations of the college') as it thinks fit for the conduct of the affairs of the college.]

Editorial Notes:

E28 Previous transitional provision: application of para. 3(1) modified (6.07.1999) by *Regional Technical Colleges (Amendment) Act 1999* (20/1999), s. 5(12), commenced on enactment.

F68[THIRD SCHEDULE

DIRECTOR

Section 9.

1. The Director of a college shall, subject to this Act, manage and direct the carrying on by the college of its academic, administrative, financial, personnel and other activities and for those purposes has such powers as are necessary or expedient.

2. In performing his or her functions the Director shall be subject to such policies as may be determined from time to time by the governing body and shall be answerable to the governing body for the efficient and effective management of the college and for the due performance of his or her functions.

3. (1) A Director may delegate any of his or her functions to another member of the staff of the college, unless they are delegated to the Director subject to the condition that they shall not be delegated further; that other member shall be answerable to the Director for the performance of those functions.

(2) Notwithstanding any such delegation, the Director shall at all times remain answerable to the governing body in respect of the functions so delegated.

4. A Director shall not hold any other office or position without the consent of the governing body.

5. A Director shall be entitled to be a member of, and preside over, any and every committee appointed by the governing body, except where the governing body with the concurrence of An tÚdarás decides otherwise.

6. A Director shall be entitled to be a member of the academic council and, if present, shall preside at all meetings of that council; he or she shall be entitled to be a member of every committee established by that council.

F69[7. Unless he or she resigns, retires or is removed from office, a Director shall hold office for such period as the governing body, with the consent of the Minister, determines, but the period shall not exceed 10 years from the date of the Director's appointment.]

8. A Director shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the college is required by this Act to prepare,
- (b) the economy and efficiency of the college in the use of its resources,
- (c) the systems, procedures and practices employed by the college for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the college referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in subparagraph (a), (b) or (c)) that is laid before Dáil Éireann.

9. A Director, if required under paragraph 8 to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

10. From time to time and whenever so requested, a Director shall account for the performance of a college's functions to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to these functions.]

Annotations

Amendments:

F68 Substituted (1.02.2007) by *Institutes of Technology Act 2006* (25/2006), s. 26, S.I. No. 36 of 2007.

F69 Substituted (5.11.2012) by the *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012), s. 86 and sch. 3 item 4, S.I. No. 421 of 2012.

F70 Deleted by *Technological Universities Act 2018* (3/2018), s. 92, not commenced as of date of revision.

Modifications (not altering text):

- C9** Prospective affecting provision: paras. 5 and 6 deleted by *Technological Universities Act 2018* (3/2018), s. 92, not commenced as of date of revision.

5. F70[...]

6. F70[...]