General Scheme

Technological Universities Bill
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AN ACT TO PROVIDE FOR THE MERGER OF CERTAIN INSTITUTES OF TECHNOLOGY AND THEREBY PROVIDING FOR THE ESTABLISHMENT OF NEW INSTITUTES OF TECHNOLOGY; TO PROVIDE FOR THE TRANSFER OF ASSETS, LIABILITIES AND STAFF OF THESE INSTITUTES OF TECHNOLOGY INTO THE NEW INSTITUTES OF TECHNOLOGY; TO PROVIDE FOR THE DISSOLUTION OF OTHER INSTITUTES OF TECHNOLOGY AND THEIR MERGER WITH THE DIT; TO PROVIDE FOR THE TRANSFER OF ASSETS, LIABILITIES AND STAFF OF THESE INSTITUTES OF TECHNOLOGY TO THE DIT; TO PROVIDE FOR THE REFORM OF THE GOVERNING AUTHORITIES OF THE INSTITUTES OF TECHNOLOGY AND OF THE EXPANDED DIT; TO PROVIDE FOR CERTAIN INSTITUTES OF TECHNOLOGY TO BECOME TECHNOLOGICAL UNIVERSITIES; TO DESCRIBE THE FUNCTIONS, GOVERNANCE ETC. OF TECHNOLOGICAL UNIVERSITIES; TO PROVIDE FOR THE CONSEQUENTIAL AMENDMENTS OF CERTAIN OTHER ENACTMENTS AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Explanatory note
The Long Title of the Bill provides that the purpose of this legislation is to provide for the merger of Dublin Institute of Technology, Institute of Technology Tallaght and Institute of Technology, Blanchardstown to form the new Dublin Institute of Technology and to provide for other institutes of technology to merge. The purpose of the Bill is also to provide for the establishment of a technological university and for the designation of institutes of technology merged under the Act as technological universities.
PART I - Preliminary and General

Head 1  Short Title and Commencement.

This Act may be cited as the Technological University Act, 2014. This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Explanatory note
Head 1 sets out the short title by which the Bill will be known and allows for a phased implementation by empowering the Minister to commence different provisions of the Bill at different times.
Head 2   Interpretation.

Provides that

(1) In this Act—

“the Academic Council” has the meaning assigned to it by section 61 of this Act;

“ ‘An tÚdarás’ means An tÚdarás um Ard-Oideachas;”.

“course of study” means a course of study, instruction or training leading to an educational award by the Institute, Qualifications Quality Ireland, a university in the State or such other certifying authority as may be approved by the Minister from time to time;

“Director” means a Director of the Institute;

“functions” includes powers and duties;

“the Governing Body” means the Governing Body of the Institute;

“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 the Institute or at such other institution as the Minister, on the recommendation of the Governing Body, may approve;

“Institute” means an Institute of Technology established by under the Institutes of Technology Acts or the Dublin Institute of Technology as appropriate;

“the Minister” means the Minister for Education and Skills;

“the President” means the President of the Institute;

“dissolved body” means an Institute of technology that is dissolved as specified under this Act;

“the Education and Training Board means an Education and Training Board established under the Education and Training Board Act 2013.

“student”, in relation to an institute or a technological university, means a person registered as a student by the institute or the technological
university or a full-time officer of the Students Union or other student representative body recognised by the governing body who was first elected or appointed to his or her office while he or she was a registered student of the institute or the technological university;

“Student Union” means a body established to promote the general interests of students of an institute or a technological university and which represents students, both individually and collectively, in respect of academic, disciplinary and other matters arising within the institution;

“merged institute” means the Dublin Institute of Technology following the merger with the institutes of technology in Tallaght and Blanchardstown or an institute resulting from a merger under Chapter 2 of Part II of this Act.

(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.

Explanatory note
Head 2 defines certain commonly used terms in the Bill.
Head 3 Regulations

Provides that

(1) The Minister may make regulations prescribing any matter which is referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations or for the purposes of enabling any provision of this Act to have full effect.

(2) Every regulation and order under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order, as the case may be, is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Explanatory note

Head 3 provides for the making of regulations by the Minister to give effect to the Act. It also provides for the laying of regulations and orders and the challenge of their validity by the Oireachtas. Commencement orders are provided for in Head 1.
Head 5 Expenses.

Provides that

The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

Explanatory note
Head 5 provides that the expenses incurred by the Minister in the administration of the Act may be paid out of moneys provided by the Oireachtas.
Head 6 Offences

Provides that

(1) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or any other person who was acting or purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

(3) A person who commits an offence under this Act, shall be liable—
   
   (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

   (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 5 years or both.

(4) Summary proceedings for an offence under this Act may be brought and prosecuted.

Explanatory Note

Head 6 sets out conditions in relation to offences committed under this Act.
Part II – Mergers of Institutes of Technology

Chapter 1 - Merger of Institutes of Technology in Blanchardstown and Tallaght with the Dublin Institute of Technology

Head 7 Establishment Day and Dissolution of Institute of Technology, Blanchardstown and Institute of Technology, Tallaght

Provides that

(1) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Chapter.

(2) On the establishment day, Institute of Technology, Blanchardstown and Institute of Technology, Tallaght (each of which is referred to in this Chapter as a “dissolved body”) are dissolved.

(3) References in any other enactment (other than this Act) or instrument under an enactment, or in the memorandum or articles of association of any company or in any other legal document to a dissolved body shall be construed as a reference to the Dublin Institute of Technology.

(4) The Minister may, following consultation with the Dublin Institute of Technology, by order specify a name, other than the Dublin Institute of Technology, by which it may describe itself for operational purposes.

(5) On the establishment day, Section 3 of the Institutes of Technology Acts 1992-2006, the First schedule is amended so that “Institute of Technology, Blanchardstown” and “Institute of Technology, Tallaght” are deleted.

Explanatory Note

Head 7 provides for the merger of the Institute of Technology Tallaght and the Institute of Technology Blanchardstown with the Dublin Institute of Technology.
Head 8  Governing Body of Dublin Institute of Technology

Provides that

(1) For the purposes of this section –

   (a) “the Act of 1992” means the Dublin Institute of Technology Act, 1992, and


(2) Section 6 of the Act of 1992 is replaced by the following –

   “Governing Body

   6 (1) The Dublin Institute of Technology shall have a governing body established in accordance with this section which shall be known by whatever name the governing body decides.

   (2) Subject to Section 2 of the Dublin Institute of Technology (Amendment) Act, 1994, the functions of the Dublin Institute of Technology shall be performed by or on the directions of its governing body.

   (3) All acts and things done by a governing body, or in the name of or on behalf of the Dublin Institute of Technology with the express or implied authority of the governing body, shall be deemed to have been done by Dublin Institute of Technology.

   (4) The Second Schedule shall apply to the governing body.

   (5) A Governing Body shall consist of such members, being not less than 11 or more than 20, as determined in accordance with this section. There shall be a majority of external members on the governing body.

   (6) The members of the governing body shall include—

      (a) the chief officer,

      (b) a chairperson, who shall be an external member of the Governing Body, appointed by a sub-board of the Governing
Body in accordance with provisions outlined in subsection (10) and,

(c) the following members elected in accordance with regulations made under subsection (10):

(i) at least one but not more than three permanent or full-time employees who are members of the academic staff of the institute of technology elected by the academic staff;

(ii) one permanent or full-time employee who is a member of the non-academic staff of the institute of technology elected by the non-academic staff;

(iii) not less than one or more than two undergraduate students of the institute of technology who are elected officers of the Students Union or other student representative body in the institute of technology recognised by the governing body, and

(iv) one post-graduate student elected by the post-graduate students.

(7) (a) Subject to subsection (10), in addition to the persons chosen and appointed pursuant to subsection (6), but included in the maximum number of members specified in subsection (5), there shall be at least three external members, but not more than eight external members, at least one of whom will be appointed having particular regard to international interests, chosen by a committee of the governing body comprising the chief officer and two other members and using a competency framework drawn up by the governing body and agreed with the AN TÚDARÁS, which will incorporate the skills required, such as financial, legal, human resources, community organisations, business and industry as the governing body considers appropriate to the objectives and mission of the institution,

(b) There shall also be two external members nominated and appointed by the Minister, and

(c) There shall be a maximum of one external member nominated from the Education and Training Board or Boards operating in the area or areas in which the Dublin Institute of Technology is situated, to be
determined by a mechanism agreed by the relevant Education and Training Boards.

(8) (i) The term of office of a member of each governing body, other than an ex officio member, shall be four years. No member may serve more than two consecutive terms of office.

(ii) A member of a governing body who is a student of the institution 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 or further periods, on each occasion not exceeding one year.

(9) In performing its functions under this section the governing body shall ensure that each sex is represented on the governing body in accordance with such gender balance as may from time to time be determined or approved by the Minister.

(10) The governing body may make regulations relating to the selection, election, nomination or appointment of members of the governing body, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations, having regard that the majority of the governing body shall not be members of the staff or students of the institution.”

(3) The Second Schedule of the Act of 1992 is replaced by the following

“Governing Body


(2) The seal of the Governing Body 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 Institute 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 Institute 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 chief officer, holds 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) A member of the Governing Body, other than the chief officer, shall be paid by the Governing Body such allowances or expenses as the Minister determines, with the approval of the Minister for Public Expenditure and Reform.

3. (1) A member of the Governing Body, other than the chief officer, may resign from office by giving the appropriate notice to the Governing Body.

(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,

(e) is convicted of an offence involving fraud or dishonesty,

(f) is the subject of an order under section 160 of the Companies Act 1990.

4. (1) If a member of the Governing Body, other than the chief officer and chairperson, dies, resigns, ceases to be qualified for or
ceases to hold office or is removed from office for any reason, the Governing Body may appoint a person to be a member of the Governing Body to fill the casual vacancy so occasioned, from the same constituency from which the member was appointed.

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

(a) holds 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

(b) is 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 any 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 which constitute a quorum.

(3) The quorum for a meeting of the Governing Body shall be set by the Governing Body at its first meeting.

(4) At a meeting of the Governing Body it shall appoint from amongst its members a member (other than the chief officer) to be its deputy-chairperson. 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) 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 shall have a second or casting vote.

(6) Subject to subparagraph (3), the Governing Body may act notwithstanding one or more vacancies among its members.

(7) 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”).

(8) A member of the Governing Body who participates in an electronic meeting is taken for all purposes to have been present at the meeting.

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

6. (1) The Governing Body may establish committees, consisting wholly or partly of persons who are either members of, or members of the staff of, the Governing Body, to assist and advise it in relation to the performance of any or all 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 desirability of there being an appropriate balance between men and women on the committee.

(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) A committee established under this paragraph may regulate, by standing orders or otherwise, its procedure and business.

(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 representative in 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, a member of a committee established under paragraph 7 or a member of the staff of the Governing Body.

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) Any 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, then 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. Subparagraphs (1) to (5) of paragraph 6 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,

(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, 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) proposals of a commercial nature or tenders submitted to the Governing Body by contractors, consultants or any other person.

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

12. Subject to this Act, the governing body may make, from time to time, such regulations as it thinks fit for the conduct of the affairs of the institution.”

(4) Section 21 of the Act of 1992 is replaced by the following –

“All tÚdaráis, following consultation with the Minister, may authorise any person or persons as An tÚdaráis may deem appropriate to report to it on any matters regarding the operation of the Dublin Institute of Technology and such person or persons shall be entitled at all reasonable times to
enter the Dublin Institute of Technology and shall be afforded every facility by the Dublin Institute of Technology, including access to all records, to perform their functions.”

(5) Section 2 (1) of the Act of 1994 is deleted and replaced by -

“(1) Where an tÚdarás, following consultation with the Minister, is satisfied, after considering the report of a person appointed under section 21 of the Principal Act, that the affairs of the DIT are not being managed in an effective manner, an tÚdarás may advise the Minister to appoint a person or a body of persons, hereinafter referred to as the Commission, to carry out such and so many of the functions of any or all of the governing body, the chairman or the President or of any of them as an tÚdarás may determine and upon such appointment that body or person shall cease to exercise the functions thereby vested in the Commission.”

(6) Section 4 of the Act of 1994 is repealed.

(7) This section shall come into force on the establishment day.

Explanatory Note:

Head 8 provides for the repeal and replacement of Section 6 of Dublin Institute of Technology Acts 1992 - 2011 and Amendment of the Second Schedule to reform the composition, nomination and selection of membership of the Governing Body of the Dublin Institute of Technology.

The Governing Body will comprise a minimum of 11 members and a maximum of 20 members, including the Chairperson and Chief Officer. The majority of the Governing Body will comprise external members. The Chairperson will be an external member of the Governing Body and appointed by the Governing Body from nominees identified by a process to be determined by the Governing Body. This is the current practice in the university sector and is standard practice internationally. The Minister will nominate 2 external members of the Governing Body. The Education and Training Board will nominate 1 external member. If major campuses are in more than one ETB area, then the relevant ETBs will alternately nominate a member. External ordinary members will form a majority on the governing body. Apart from the Ministerial and ETB nominations, the external members would be chosen by a nominations committee using a competency framework drawn up by each institution and agreed with an tÚdarás. The competency framework will incorporate the skill-sets required for modern governance, such as financial, legal, HR skills, the inclusion of members from enterprise and community or others
appropriate to the objectives and mission of the institution. The staff and student representatives will continue to be elected.

The amendment to Section 21 of the Dublin Institute of Technology Act 1992 provides the power to an tÚdarás, following consultation with the Minister to appoint an Inspector, rather than the power lying with the Minister, following consultation with an tÚdarás. The amendment will help underpin the new strengthened regulatory role for an tÚdarás. The power to appoint a Commission will remain with the Minister, following advice from an tÚdarás after their consideration of an inspectors report.
Head 9    Claims against a dissolved institution

Provides that

(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day of the functions of a dissolved body shall on and after that day lie against Dublin Institute of Technology. Where immediately before the establishment day, any legal proceedings are pending in any court or tribunal to which a dissolved body is a party, the name of Dublin Institute of Technology shall be substituted for that of the dissolved body and the proceedings shall not abate by reason of such substitution.

(2) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which subsection (1) relates and the terms of the agreement have not been implemented, or judgement in such a claim has been given in favour of a person but has not been enforced, then the terms of the agreement or judgement, as the case may be, shall, in so far as they would have been enforceable against a dissolved body, be enforceable against Dublin Institute of Technology and not the dissolved body.

(3) Any claim made or proper to be made by a dissolved body in respect of any loss or injury arising from the act or default of any person before the establishment day shall on and after that day be regarded as having been made by or proper to be made by Dublin Institute of Technology and may be pursued and sued for by the Dublin Institute of Technology as if the loss or injury had been suffered by Dublin Institute of Technology.

Explanatory Note

Head 9 provides that any legal proceedings pending against the Institute of Technology, Blanchardstown and Institute of Technology, Tallaght before the commencement of this Part, shall be construed as proceedings against the Dublin Institute of Technology.
Head 10 Transfer of lands and property

Provides that

(1) On the establishment day, all lands that, immediately before that day, were vested in a dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in Dublin Institute of Technology for all the estate and interest therein that, immediately before the establishment day was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed.

(2) On the establishment day all property (other than land), including choses-in-action, that, immediately before that day, was vested in a dissolved body shall stand vested in Dublin Institute of Technology without any assignment.

(3) Every chose-in-action vested in Dublin Institute of Technology by virtue of subsection (2) may, on and from the establishment day, be sued on, recovered or enforced by Dublin Institute of Technology in its own name, and it shall not be necessary for Dublin Institute of Technology to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Explanatory Note

Head 10 provides that all property and rights relating to such property and all liabilities of a relevant body shall, at the commencement of this Part, become the property and liabilities of the Dublin Institute of Technology including all moneys, stocks and securities.
Head 11 Continuation of activities of dissolved institutions

Provides that

(1) Anything commenced and not completed before the establishment day by or under the authority of a dissolved body may be carried on or completed on or after the establishment day by Dublin Institute of Technology.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made by a dissolved body, shall, if and in so far as it was operative immediately before the establishment day, have effect on or after that day as if it had been granted or made by Dublin Institute of Technology.

(3) Any money, stocks, shares or securities transferred by section 10 that immediately before the establishment day were standing in the name of a dissolved body shall, on the request of Dublin Institute of Technology, be transferred into its name.

(4) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Dublin Institute of Technology under section 10 or 14 shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Explanatory Note
Head 11 provides that anything commenced and not completed by Institute of Technology, Blanchardstown or Institute of Technology, Tallaght before the establishment day, shall on establishment day be assigned to the Dublin Institute of Technology.
Head 12 Transfer of Staff to the Merged Institution

Provides that

(1)(a) Subject to paragraph (b) every person who, immediately before the establishment day, was a member of the staff of a dissolved body shall, on the establishment day become and be a member of the staff of Dublin Institute of Technology.

(b) Every person who, immediately before the establishment day, was a fixed-term employee of a dissolved body shall, on the establishment day, become and be a fixed-term employee of Dublin Institute of Technology for the duration of his or her contract of employment.

(2) A person referred to in subsection (1) may be transferred, in accordance with procedures determined from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform following consultation with recognised trade unions and staff associations representing the persons concerned, to any other institute of technology or public service body.

(3)(a) Subject to paragraph (b), a person transferred in accordance with subsection (2) shall, in accordance with procedures determined under that subsection, become and be a member of staff of the institute of technology or the public service body to which he or she is transferred.

(b) Every person who, immediately before the date on which he or she was transferred in accordance with subsection (2), was a fixed-term employee of a merged institute shall, on that date, become and be a fixed-term employee of the institute of technology or public service body to which he or she is transferred, for the duration of his or her contract of employment.

(4) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned—

(a) a person referred to in subsection (1) shall not, on the establishment day, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the establishment day, and

(b) a person referred to in subsection (2) shall not, on the date on which he or she is transferred in accordance with that subsection,
be brought to less beneficial conditions of remuneration than the
conditions of remuneration to which he or she was subject
immediately before the date on which he or she was so
transferred.

(5) In subsection (4), a reference to conditions of remuneration does not
include conditions in relation to superannuation.

(6) In relation to a person referred to in subsection (1) or (2), previous
service with the body from which the person was transferred shall be
reckonable for the purposes of, but subject to any exceptions or
exclusions in, the following:

a. the Redundancy Payments Acts 1996 to 2011;
b. the Protection of Employees (Part-Time Work) Act 2001;
c. the Act of 2003;
d. the Organisation of Working Time Act 1997;
e. the Terms of Employment (Information) Acts 1994 to 2012;
f. the Minimum Notice and Terms of Employment Acts 1973 to
   2005;
g. the Unfair Dismissals Acts 1977 to 2007;
h. the Maternity Protection Acts 1994 and 2004;
i. the Parental Leave Acts 1998 and 2006;
j. the Adoptive Leave Acts 1995 and 2005;
k. the Carer’s Leave Act 2001.

(7) In this section—

“Act of 2003” means the Protection of Employees (Fixed-Term Work)
Act 2003;
“contract of employment” has the same meaning as it has in the Act of
2003;
“fixed-term employee” has the same meaning as it has in the Act of
2003;
“recognised trade union or staff association” means a trade union or
staff association recognised by the Minister for the purpose of
negotiations which are concerned with the remuneration or conditions
of employment, or the working conditions of employees.

Explanatory Note
Head 12 provides for the transfer of staff of the Institute of Technology,
Blanchardstown and Institute of Technology, Tallaght to the Dublin
Institute of Technology.
Head 13  Superannuation

Provides that

(1) A person referred to in section 12 who, immediately before the establishment day, was a member of a relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the establishment day, continue to be a member of such scheme in accordance with its terms and conditions.

(2) A pensionable public servant who —

(a) is not a member of the Single Public Service Pension Scheme, and

(b) is appointed under section 12 to be a member of staff of an merged institute, shall, on his or her appointment to the merged institute concerned, become and be a member of a relevant superannuation scheme in accordance with its terms and conditions.

(3) Nothing in this section prevents a relevant superannuation scheme being varied in accordance with its terms and conditions.

(4) In this section—

“pensionable public servant” shall be construed in accordance with Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

“relevant superannuation scheme” means the Education Sector Superannuation Scheme, within the meaning of Article 3(4) of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001).

Explanatory Note
Head 13 provides for the continuation of the service of members of the superannuation scheme for existing employees of the Institute of Technology, Blanchardstown, Institute of Technology, Tallaght and the Dublin Institute of Technology. Subsection (2) provides the definition of a pensionable public servant.
Head 14 Rights and Liabilities

Provides that

(1) All rights and liabilities of a dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the establishment day shall on that day stand transferred to Dublin Institute of Technology.

(2) Every right and liability transferred by subsection (1) to Dublin Institute of Technology may, on and after the establishment day, be sued on, recovered or enforced by or against Dublin Institute of Technology in its own name, and it shall not be necessary for Dublin Institute of Technology to give notice of the transfer to the person whose right or liability is transferred by that subsection.

(3) Every lease, licence, wayleave or permission granted by a dissolved body in relation to land or other property vested in a relevant merged institute by or under this Act, and in force immediately before the establishment day, shall continue in force on and after that day as if granted by Dublin Institute of Technology.

Explanatory Note

Head 14 provides that all rights and liabilities of Institute of technology Tallaght and Institute of Technology Blanchardstown, entered into by them before the establishment day, shall be transferred to the merged Institute
Head 15  Records

Provides that

Each record held by a dissolved body immediately before the establishment day is on that day transferred to Dublin Institute of Technology and is, on and from that day, held by Dublin Institute of Technology.

Explanatory Note

Head 15 provides for the transfer of all records held by Institute of technology Tallaght and Institute of Technology Blanchardstown shall to the merged Institute.
Head 16 Accounts

Provides that

(1) Final accounts of a dissolved body shall be prepared by Dublin Institute of Technology in respect of the period specified under subsection (3).

(2) Dublin Institute of Technology shall submit the final accounts referred to in subsection (1) to the Comptroller and Auditor General for audit not later than the date it submits its first set of accounts to the Comptroller and Auditor General under section 17 of the DIT Act 1992, and immediately after the audit, a copy of the accounts and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(3) For the purposes of subsection (1), the Minister may specify a period that is longer or shorter than a financial year of the dissolved body concerned.

(4) Any accounts of a dissolved body, other than the final accounts, which on the establishment day have not been submitted to the Comptroller and Auditor General for audit, shall be prepared and submitted by Dublin Institute of Technology not later than 3 months after the establishment day.

(5) Immediately after Dublin Institute of Technology receives a copy of the accounts submitted under subsection (4) duly audited and a copy of the Comptroller and Auditor General’s report, the Governing Body shall present a copy of the accounts and a copy of the report to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(6) The final annual report for a dissolved body shall be prepared by Dublin Institute of Technology and that Governing Body shall submit the report to the Minister not later than the date it submits its first annual report to the Minister.

(7) The Minister shall, as soon as may be after receiving a final annual report under subsection (6), cause copies of the report to be laid before each House of the Oireachtas.
(8) The final annual report of a dissolved body shall be published on the internet by Dublin Institute of Technology as soon as practicable after copies of the report are laid under subsection (7).

Explanatory Note
Head 16 provides for the keeping of accounts, their submission to the Comptroller and Auditor General, presentation to the Minister and laying before the Houses of the Oireachtas.
Chapter 2 – Merger of Institutes of Technology

Head 17 Merger of Institutes of Technology

Provides that

(1) Subject to subsection (2), the Minister may, by order, appoint a day to be an establishment day for the purposes of this Chapter.

(2) Where the Minister proposes to make an order under subsection (1), 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 the draft has been passed by each such House.

(3) An order made under subsection (1) shall specify –

(a) that not less than two Institutes of Technology to be dissolved in accordance with section 18, and
(b) the name of the Institute to be established in accordance with subsection (4).

(4) There shall stand established on an establishment day appointed by order by the Minister under subsection (1) an institute of education and training, to be known by the name specified in that order (and in this Chapter referred to as the “Institute”), to perform the functions assigned to it by the Institutes of Technology Acts (1992-2006).

(5) An Institute established under this section shall be a body corporate with perpetual succession and shall have the power to sue, and may be sued, in its corporate name, and shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and shall have power to acquire, hold and dispose of any other property.

(6) The Minister may, following consultation with the Institute concerned, by order specify a name, other than the name specified in the order establishing that Institute, by which the Institute may describe itself for operational purposes.

(7) On an establishment day appointed under subsection (1), Section 3 of the Institutes of Technology Acts 1992-2006, First Schedule is amended
so that the references to the Institutes of Technology specified in that order are deleted and the name of the Institute to be established on that day is inserted into the First Schedule.

Explanatory Note
Head 17 provides for the establishment of an Institute of Technology through the dissolution and amalgamation of existing Institutes of Technology. An Institution established under this section will be a body corporate and thus will be a legal entity in its own right. It will have power to hold and deal with land with the consent of the Ministers for Finance and Education and Skills.
Head 18   Dissolution of Institutes of Technology

Provides that

(1) The Institutes of Technology specified in an order made under section 17 (each of which is referred to in this Chapter as a “dissolved body”) are dissolved.

(2) References in any other enactment (other than this Act) or instrument under an enactment, or in the memorandum or articles of association of any company or in any other legal document to a dissolved body shall be construed as a reference to the relevant Institute.

(3) This section shall come into operation on the relevant establishment day.

*Explanatory Note*

*Head 18 provides for the dissolution of the Institutes of Technology specified in an order made by the Minister under Head 17.*
Head 19 Liability for loss occurring before establishment day.

Provides that

(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day of the functions of a dissolved body shall on and after that day lie against the relevant Institute.

(2) Where immediately before the establishment day, any legal proceedings are pending in any court or tribunal to which a dissolved body is a party, the name of the relevant Institute shall be substituted for that of the dissolved body and the proceedings shall not abate by reason of such substitution.

(3) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which subsection (1) relates and the terms of the agreement have not been implemented, or judgement in such a claim has been given in favour of a person but has not been enforced, then the terms of the agreement or judgement, as the case may be, shall, in so far as they would have been enforceable against a dissolved body, be enforceable against the relevant Institute and not the dissolved body.

(4) Any claim made or proper to be made by a dissolved body in respect of any loss or injury arising from the act or default of any person before the establishment day shall on and after that day be regarded as having been made by or proper to be made by the relevant Institute and may be pursued and sued for by that Institute as if the loss or injury had been suffered by the Institute.

Explanatory Note
Head 19 provides for liability for loss occurring before the establishment day of a relevant Institute
Head 20 Transfer of land and other property to an Institute

Provides that

(1) On the establishment day, all lands that, immediately before that day, were vested in a dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the relevant Institute for all the estate and interest therein that, immediately before the establishment day was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed.

(2) On the establishment day all property (other than land), including choses-in-action, that, immediately before that day, was vested in a dissolved body shall stand vested in the relevant Institute without any assignment.

(3) Every chose-in-action vested in an Institute by virtue of subsection (2) may, on and from the establishment day, be sued on, recovered or enforced by the Institute concerned in its own name, and it shall not be necessary for the Institute to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Explanatory Note

Head 20 provides for the transfer of land and other property to an Institute established under this Chapter.
Head 21 Transfer of staff of dissolved body to an Institute

Provides that

(1)(a) Subject to paragraph (b) every person who, immediately before the establishment day, was a member of the staff of a dissolved body shall, on the establishment day, become and be a member of the staff of the relevant Institute.

(b) Every person who, immediately before the establishment day, was a fixed-term employee of a dissolved body shall, on the establishment day, become and be a fixed-term employee of the relevant Institute for the duration of his or her contract of employment.

(2) A person referred to in subsection (1) may be transferred, in accordance with procedures determined from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform following consultation with recognised trade unions and staff associations representing the persons concerned, to a body established under this Part or a public service body.

(3)(a) Subject to paragraph (b), a person transferred in accordance with subsection (2) shall, in accordance with procedures determined under that subsection, become and be a member of staff of the body established under this Part or the public service body to which he or she is transferred.

(b) Every person who, immediately before the date on which he or she was transferred in accordance with subsection (2), was a fixed-term employee of a dissolved body shall, on that date, become and be a fixed-term employee of the body established under this Part or public service body to which he or she is transferred for the duration of his or her contract of employment.

(4) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned—

(a) person referred to in subsection (1) shall not, on the establishment day, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the establishment day, and
(b) a person referred to in subsection (2) shall not, on the date on which he or she is transferred in accordance with that subsection, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the date on which he or she was so transferred.

(5) In subsection (4), a reference to conditions of remuneration does not include conditions in relation to superannuation.

(6) In relation to a person referred to in subsection (1) or (2), previous service with the body from which the person was transferred shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:

a) the Redundancy Payments Acts 1996 to 2011;
b) the Protection of Employees (Part-Time Work) Act 2001;
c) the Act of 2003;
d) the Organisation of Working Time Act 1997;
e) the Terms of Employment (Information) Acts 1994 to 2012;
f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
g) the Unfair Dismissals Acts 1977 to 2007;
h) the Maternity Protection Acts 1994 and 2004;
i) the Parental Leave Acts 1998 and 2006;
j) the Adoptive Leave Acts 1995 and 2005;
k) the Carer’s Leave Act 2001.

(7) In this section—

“Act of 2003” means the Protection of Employees (Fixed-Term Work) Act 2003;

“contract of employment” has the same meaning as it has in the Act of 2003;

“fixed-term employee” has the same meaning as it has in the Act of 2003;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purpose of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.
Explanatory Note
Head 21 provides for the transfer of staff from a dissolved body to an Institute established under this Chapter.
Head 23 Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body

Provides that

(1) All rights and liabilities of a dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the establishment day shall on that day stand transferred to the relevant Institute.

(2) Every right and liability transferred by subsection (1) to a relevant Institute may, on and after the establishment day, be sued on, recovered or enforced by or against that Institute in its own name, and it shall not be necessary for that Institute to give notice of the transfer to the person whose right or liability is transferred by that subsection.

(3) Every lease, licence, wayleave or permission granted by a dissolved body in relation to land or other property vested in the relevant Institute by or under this Act, and in force immediately before the establishment day, shall continue in force on and after that day as if granted by that Institute.

Explanatory Note

*Head 23 provides that all rights and liabilities of a dissolved body, entered into by them before the establishment day, shall on establishment day be transferred to the relevant Institute*
Head 22 Superannuation

Provides that

(1) A person referred to in section 21 who, immediately before the establishment day, was a member of a relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the establishment day, continue to be a member of such scheme in accordance with its terms and conditions.

(2) A pensionable public servant who—

(a) is not a member of the Single Public Service Pension Scheme, and

(b) is appointed under section 21 to be a member of staff of an Institute established under this Chapter, shall, on his or her appointment to the institute concerned, become and be a member of a relevant superannuation scheme in accordance with its terms and conditions.

(3) Nothing in this section prevents a relevant superannuation scheme being varied in accordance with its terms and conditions.

(4) In this section—

“pensionable public servant” shall be construed in accordance with Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

“relevant superannuation scheme” means the Education Sector Superannuation Scheme, within the meaning of Article 3(4) of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001).

Explanatory Note
Head 22 provides for the continuation of the service of members of the superannuation scheme of a dissolved body. Subsection (2) provides the definition of a pensionable public servant.
Head 24  
Provisions consequent upon transfer of assets and liabilities to a relevant Institute

Provides that

(1) Anything commenced and not completed before the establishment day by or under the authority of a dissolved body may be carried on or completed on or after the establishment day by the relevant Institute.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made by a dissolved body, shall, if and in so far as it was operative immediately before the establishment day, have effect on or after that day as if it had been granted or made by the relevant Institute.

(3) Any money, stocks, shares or securities transferred by section 20 that immediately before the establishment day were standing in the name of a dissolved body shall, on the request of a relevant Institute, be transferred into its name.

(4) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the relevant Institute under section 20 or 23 shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

(5) A document which purports to be a certificate signed by the Minister referred to in subsection (4) shall be taken to be such a certificate unless the contrary is shown.

Explanatory Note

Head 24 provides that anything commenced and not completed by a dissolved body, before the establishment day, shall on establishment day be assigned to the relevant Institute.
Head 25 Records

Provides that

Each record held by a dissolved body immediately before the establishment day is on that day transferred to the relevant Institute and is, on and from that day, held by that Institute.

Explanatory Note

*Head 25 provides that every record held by a dissolved body, before the establishment day, shall on establishment day be assigned to the relevant Institute.*
Head 26 Accounts

Provides that

(1) Final accounts of each body dissolved under section 18 shall be prepared by the relevant Institute in respect of the period specified under subsection (3).

(2) A relevant Institute shall submit the final accounts referred to in subsection (1) to the Comptroller and Auditor General for audit not later than the date it submits its first set of accounts to the Comptroller and Auditor General under section 16 of RTC Act 1992, and immediately after the audit, a copy of the accounts and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(3) For the purposes of subsection (1), the Minister may specify a period that is longer or shorter than a financial year of the dissolved body concerned.

(4) Any accounts of a dissolved body, other than the final accounts, which on the establishment day concerned have not been submitted to the Comptroller and Auditor General for audit, shall be prepared and submitted by the relevant Institute not later than 3 months after the establishment day.

(5) Immediately after a relevant Institute receives a copy of the accounts submitted under subsection (4) duly audited and a copy of the Comptroller and Auditor General’s report, the Governing Body of that Institute shall present a copy of the accounts and a copy of the report to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(6) A relevant Institute shall prepare a final annual report for each relevant dissolved body and shall submit the report to the Minister not later than the date it submits its first annual report to the Minister.

(7) The Minister shall, as soon as may be after receiving a final annual report under subsection (6), cause copies of the report to be laid before each House of the Oireachtas.
(8) The final annual report of a dissolved body shall be published on the internet by the relevant Institute as soon as practicable after copies of the report are laid under subsection (7).

Explanatory Note

Head 26 provides that final accounts and final reports shall be prepared by an Institute established under this Chapter in respect of each relevant dissolved body.
PART III - Establishment of a Technological University

Chapter 1 - General

Head 27  Interpretation

Provides that

In this Part -

(1) “merged institute” means –

(i) following the commencement of section 27, the Dublin Institute of Technology, or
(ii) an Institute of Technology established under section 17,

as the case may be.

“incorporated institute” is an institute specified in an order made under Section 40 by the Minister.

“statutes” means the statutes made under section 54 by a governing body.

“the Academic Council” has the meaning assigned to it by section 61 of this Act;

“‘An tÚdarás’ means An tÚdarás um Ard-Oideachas;”.

“course of study” means a course of study, instruction or training leading to an educational award by the Institute, Qualifications Quality Ireland, a university in the State or such other certifying authority as may be approved by the Minister from time to time;

“functions” includes powers and duties;

“the Governing Body” means the Governing Body of the technological university;
“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 the Institute or at such other institution as the Minister, on the recommendation of the Governing Body, may approve;

“Institute” means an Institute of Technology established by under the Institutes of Technology Acts or the Dublin Institute of Technology as appropriate;

“the Minister” means the Minister for Education and Skills;

“the President” means the President of the Institute;

“dissolved body” means an Institute of technology that is dissolved as specified under this Act;

“student”, in relation to an institute or a technological university, means a person registered as a student by the institute or the technological university or a full-time officer of the Students Union or other student representative body recognised by the governing body who was first elected or appointed to his or her office while he or she was a registered student of the institute or the technological university;

“Student Union” means a body established to promote the general interests of students of an institute or a technological university and which represents students, both individually and collectively, in respect of academic, disciplinary and other matters arising within the institution;

(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.
Head 28 Criteria

Provides that

(1) The Minister shall, following consultation with An tÚdarás, make regulations as soon as practicable after the commencement of this Part specifying the criteria that shall be complied with by a merged institute before it may become a technological university in accordance with Section 30.

(2) Without prejudice to the generality of subsection (1), criteria specified in regulations made under that subsection shall include criteria relating to—

(a) the provision of programmes at all levels of higher education with particular reference to the National Framework of Qualifications, and the breadth and orientation of those programmes to reflect the skills needs in the labour force,

(b) the profile of learners at the time of application to include;
   (i) a minimum of 4% of full time equivalent student enrolments in honours degree programmes or above to be enrolled in postgraduate programmes;
   (ii) a combined minimum of 30% of all enrolments to be in flexible learning programmes; professional or industry based programmes; or mature learners;

(c) the provision of high quality research and innovation activities with direct social and economic impacts for the region of location of the institution, with the capacity to support programmes and doctoral training in a minimum of three fields of knowledge/study at the time of application;

(d) evidence of a high level of engagement of the institute with business, enterprise, the professions and other related stakeholders in the region within which the institute operates,

(e) the profile of the staff of the institute, with particular reference to the qualifications of the teaching staff to include a minimum of 90% of full time academic staff to hold a postgraduate qualification with a minimum of 45% of full time academic staff to hold a doctoral qualification or
terminal degree appropriate to their profession at the time of application,

(f) the quality of educational provision of the institute, with particular reference to quality assurance procedures, curriculum development informed by the needs of enterprise, and programme development,

(g) the current and planned activities of the institute to enhance its internationalisation relating to teaching, research, staff and student mobility and collaboration, and

(h) a high standard in the overall management and governance of the institute concerned, including the establishment of properly integrated and effective academic governance structures sufficient to enable the institute to deliver the objects and functions of a technological university in accordance with Section 50.

(3) Regulations made under subsection (1) may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of those regulations.
Head 29  Application to become Technological University

Provides that

(1) A merged institute may, where it considers that it complies with the criteria prescribed by the Minister in accordance with Section 28, apply to the Minister to become a technological university.

(2) Following the receipt of an application under subsection (1), the Minister shall direct An tÚdarás to prepare a report on the application.

(3) An tÚdarás shall, within two months of the receipt of a direction under subsection (2), appoint a panel of at least five persons having knowledge of, or expertise in, matters relating to higher education both in the national and international context (in this Part referred to as an “advisory panel”).

(4) An advisory panel shall, within four months of being appointed, and having considered the application referred to in subsection (1), submit a report to an tÚdarás regarding the compliance of the merged institute with the criteria referred to in subsection (1).

(5) An tÚdarás shall, within two months of receiving a report referred to in subsection (4) and having regard to the criteria referred to in subsection (1), provide to the Minister a report containing its recommendations as to –

(a) whether the merged institute concerned should become a technological university under this Act,

(b) whether the merged institute concerned should remain an institute of technology, or

(c) any other matter arising out of its considerations as an tÚdarás thinks appropriate.

Explanatory Note

Head 29 provides for an institute merged under Part two to apply to become a technological university and for the Minister to direct an tÚdarás to appoint a panel and provide a report on the application.
Head 30    Establishment of a Technological University

Provides that

(1) The Minister may, subject to subsection (2), following consideration of the report referred to in section 29(5) and where he is satisfied that the merged institute concerned complies with the criteria prescribed by the Minister in accordance with section 28, by order, appoint a day to be an establishment day for the purposes of this Chapter.

(2) An order made under subsection (1) shall specify –

(3) the merged institute to be dissolved in accordance with section 31, and

(a) the name of the Technological University to be established in accordance with subsection (4).

(4) There shall stand established on an establishment day appointed by order by the Minister under subsection (1) an institute of education and training, to be known by the name specified in that order (and in this Chapter referred to as a “Technological University”), to perform the functions assigned to it by this Act.

(5) A Technological University established under this section shall be a body corporate with perpetual succession and shall have the power to sue, and may be sued, in its corporate name, and shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and shall have power to acquire, hold and dispose of any other property.

(6) The Minister may, following consultation with the Technological University concerned, by order specify a name, other than the name specified in the order establishing that Technological University, by which the Technological University may describe itself for operational purposes.

(7) On an establishment day appointed under subsection (1), and where the merged institute concerned is not the Dublin Institute of Technology, Section 3 of the Institutes of Technology Acts 1992-2006, First Schedule will be amended so that the reference to the merged institute specified in that order is deleted.
(8) On an establishment day appointed under subsection (1), and where the merged institute concerned is the Dublin Institute of Technology, the Dublin Institute of Technology Acts 1992 – 2006 is repealed.

Explanatory Note

Head 30 provides for the establishment of a Technological University. A Technological University established under this section will be a body corporate and thus will be a legal entity in its own right. It will have power to hold and deal with land with the consent of the Ministers for Public Expenditure and Reform and Education and Skills.
Chapter 2 - Transfer Arrangements for merged institutes

Head 31 Dissolution of Merged Institutes

Provides that

(1) The merged institute specified in an order made under section 30 (each of which is referred to in this Chapter as a “dissolved merged institute”) is dissolved.

(2) References in any other enactment (other than this Act) or instrument under an enactment, or in the memorandum or articles of association of any company or in any other legal document to a dissolved merged institute shall be construed as a reference to the relevant Technological University.

(3) This section shall come into operation on the relevant establishment day.

Explanatory Note

*Head 31 provides for the dissolution of the Institutes of Technology specified in an order made by the Minister under Head 30.*
Head 32 Liability for loss occurring before establishment day.

Provides that

(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the relevant establishment day of the functions of a dissolved merged institute shall on and after that day lie against the relevant Technological University.

(2) Where immediately before the establishment day, any legal proceedings are pending in any court or tribunal to which a dissolved merged institute is a party, the name of the relevant Technological University shall be substituted for that of the dissolved merged institute and the proceedings shall not abate by reason of such substitution.

(3) Where, before the relevant establishment day, agreement has been reached between the parties concerned in settlement of a claim to which subsection (1) relates and the terms of the agreement have not been implemented, or judgement in such a claim has been given in favour of a person but has not been enforced, then the terms of the agreement or judgement, as the case may be, shall, in so far as they would have been enforceable against a merged institute, be enforceable against the relevant Technological University and not the dissolved merged institute.

(4) Any claim made or proper to be made by a dissolved merged institute in respect of any loss or injury arising from the act or default of any person before the relevant establishment day shall on and after that day be regarded as having been made by or proper to be made by the relevant Technological University and may be pursued and sued for by that Technological University as if the loss or injury had been suffered by the Technological University.

Explanatory Note

Head 32 provides for liability for loss occurring before the establishment day of a relevant Technological University.
Head 33 Transfer of land and other property to a Technological University

Provides that

(1) On the establishment day, all lands that, immediately before that day, were vested in a dissolved merged institute and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the relevant Technological University for all the estate and interest therein that, immediately before the establishment day was vested in the dissolved merged institute, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed.

(2) On the relevant establishment day all property (other than land), including choses-in-action, that, immediately before that day, was vested in a dissolved merged institute shall stand vested in the relevant Technological University without any assignment.

(3) Every chose-in-action vested in a Technological University by virtue of subsection (2) may, on and from the relevant establishment day, be sued on, recovered or enforced by the Technological University concerned in its own name, and it shall not be necessary for the Technological University to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Explanatory Note
Head 33 provides for the transfer of land and other property to a Technological University established under this Chapter.
Head 34 Transfer of staff of dissolved merged institute to a Technological University

Provides that

(1)(a) Subject to paragraph (b) every person who, immediately before the establishment day, was a member of the staff of a dissolved merged institute shall, on the establishment day, become and be a member of the staff of the relevant Technological University.

(b) Every person who, immediately before the establishment day, was a fixed-term employee of a dissolved merged institute shall, on the establishment day, become and be a fixed-term employee of the relevant Technological University for the duration of his or her contract of employment.

(2) A person referred to in subsection (1) may be transferred, in accordance with procedures determined from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform following consultation with recognised trade unions and staff associations representing the persons concerned, to a Technological University established under this Part or a public service body.

(3)(a) Subject to paragraph (b), a person transferred in accordance with subsection (2) shall, in accordance with procedures determined under that subsection, become and be a member of staff of the relevant Technological University established under this Part or the public service body to which he or she is transferred.

(b) Every person who, immediately before the date on which he or she was transferred in accordance with subsection (2), was a fixed-term employee of a dissolved merged institute shall, on that date, become and be a fixed-term employee of the relevant Technological University established under this Part or the public service body to which he or she is transferred, for the duration of his or her contract of employment.

(4) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned—

a. a person referred to in subsection (1) shall not, on the establishment day, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he
or she was subject immediately before the establishment day, and

b. a person referred to in subsection (2) shall not, on the date on which he or she is transferred in accordance with that subsection, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the date on which he or she was so transferred.

(5) In subsection (4), a reference to conditions of remuneration does not include conditions in relation to superannuation.

(6) In relation to a person referred to in subsection (1) or (2), previous service with the body from which the person was transferred shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:

   a) the Redundancy Payments Acts 1996 to 2011;
   b) the Protection of Employees (Part-Time Work) Act 2001;
   c) the Act of 2003;
   d) the Organisation of Working Time Act 1997;
   e) the Terms of Employment (Information) Acts 1994 to 2012;
   f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
   g) the Unfair Dismissals Acts 1977 to 2007;
   h) the Maternity Protection Acts 1994 and 2004;
   i) the Parental Leave Acts 1998 and 2006;
   j) the Adoptive Leave Acts 1995 and 2005;
   k) the Carer’s Leave Act 2001.

(7) In this section—

“Act of 2003” means the Protection of Employees (Fixed-Term Work) Act 2003;

“contract of employment” has the same meaning as it has in the Act of 2003;

“fixed-term employee” has the same meaning as it has in the Act of 2003;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purpose of negotiations
which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

Explanatory Note

Head 34 provides for the transfer of staff from a dissolved merged institute to a Technological University established under this Chapter.
Head 35  Superannuation

Provides that

(1) A person referred to in section 34 who, immediately before the establishment day, was a member of a relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the relevant establishment day, continue to be a member of such scheme in accordance with its terms and conditions.

(2) A pensionable public servant who—

(a) is not a member of the Single Public Service Pension Scheme, and
(b) is appointed under section 34 to be a member of staff of a Technological University established under this Chapter, shall, on his or her appointment to the Technological University concerned, become and be a member of a relevant superannuation scheme in accordance with its terms and conditions.

(3) Nothing in this section prevents a relevant superannuation scheme being varied in accordance with its terms and conditions.

(4) In this section—

“pensionable public servant” shall be construed in accordance with Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;
“relevant superannuation scheme” means the Education Sector Superannuation Scheme, within the meaning of Article 3(4) of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001).

Explanatory Note
Head 35 provides for the continuation of the service of members of the superannuation scheme of a dissolved merged institute. Subsection (2) provides the definition of a pensionable public servant.
Head 36  Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved merged institute

Provides that

(1) All rights and liabilities of a dissolved merged institute arising by virtue of any contract or commitment (expressed or implied) entered into by it before the establishment day shall on that day stand transferred to the relevant Technological University.

(2) Every right and liability transferred by subsection (1) to a relevant Technological University may, on and after the relevant establishment day, be sued on, recovered or enforced by or against that Technological University in its own name, and it shall not be necessary for that Technological University to give notice of the transfer to the person whose right or liability is transferred by that subsection.

(3) Every lease, licence, wayleave or permission granted by a dissolved merged institute in relation to land or other property vested in the relevant Technological University by or under this Act, and in force immediately before the relevant establishment day, shall continue in force on and after that day as if granted by that Technological University.

Explanatory Note

Head 36 provides that all rights and liabilities of a dissolved merged institute, entered into by them before the relevant establishment day, shall on establishment day be transferred to the relevant Technological University.
Head 37  Provisions consequent upon transfer of assets and liabilities to a relevant Technological University

Provides that

(1) Anything commenced and not completed before the establishment day by or under the authority of a dissolved merged institute may be carried on or completed on or after the establishment day by the relevant Technological University.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made by a dissolved merged institute, shall, if and in so far as it was operative immediately before the relevant establishment day, have effect on or after that day as if it had been granted or made by the relevant Technological University.

(3) Any money, stocks, shares or securities transferred by section 33 that immediately before the establishment day were standing in the name of a dissolved merged institute shall, on the request of a relevant Technological University, be transferred into its name.

(4) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the relevant Technological University under section 33 or 36 shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

(5) A document which purports to be a certificate signed by the Minister referred to in subsection (4) shall be taken to be such a certificate unless the contrary is shown.

Explanatory Note

Head 37 provides that anything commenced and not completed by a dissolved merged institute, before the establishment day, shall on establishment day be assigned to the relevant Technological University.
Head 38  Records

Provides that

Each record held by a dissolved merged institute immediately before the relevant establishment day is on that day transferred to the relevant Technological University and is, on and from that day, held by that Technological University.

*Explanatory Note*

*Head 38 provides that every record held by a dissolved merged institute, before the establishment day, shall on establishment day be assigned to the relevant Technological University.*
Head 39  Accounts

Provides that

(1) Final accounts of a dissolved merged institute dissolved under section 31 shall be prepared by the relevant Technological University in respect of the period specified under subsection (3).

(2) A relevant Technological University shall submit the final accounts referred to in subsection (1) to the Comptroller and Auditor General for audit not later than the date it submits its first set of accounts to the Comptroller and Auditor General under section 66, and immediately after the audit, a copy of the accounts and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(3) For the purposes of subsection (1), the Minister may specify a period that is longer or shorter than a financial year of the dissolved body concerned.

(4) Any accounts of a dissolved merged institute, other than the final accounts, which on the establishment day concerned have not been submitted to the Comptroller and Auditor General for audit, shall be prepared and submitted by the relevant Technological University not later than 3 months after the establishment day.

(5) Immediately after a relevant Technological University receives a copy of the accounts submitted under subsection (4) duly audited and a copy of the Comptroller and Auditor General’s report, the Governing Body of that Institute shall present a copy of the accounts and a copy of the report to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(6) A relevant Technological University shall prepare a final annual report for the relevant dissolved merged institute and shall submit the report to the Minister not later than the date it submits its first annual report to the Minister.

(7) The Minister shall, as soon as may be after receiving a final annual report under subsection (6), cause copies of the report to be laid before each House of the Oireachtas.
(8) The final annual report of a dissolved merged institute shall be published on the internet by the relevant Technological University as soon as practicable after copies of the report are laid under subsection (7).

Explanatory Note
Head 39 provides that final accounts and final reports shall be prepared by a Technological University established under this Chapter in respect of each relevant dissolved merged institute.
Chapter 3 – Expansion of a Technological University

Head 40 Expansion of a Technological University

Provides that

(1) If An tÚdarás considers that an educational institution, an institute of technology, or part of an educational institution should form part of a technological university, the Minister may by order made with the consent of the Minister for Public Expenditure and Reform, the institution concerned and the governing body of the technological university, provide that the institution, an institute of technology listed in Section 3, the First schedule of the Institute of technology Acts (1992-2006), or part shall become and form part of the technological university, and on the making of the order it shall be so incorporated and merged.

(2) The Minister shall not make an order under subsection (1) unless the Minister has first caused to be laid before each House of the Oireachtas a draft of the proposed order and a resolution approving of the draft has been passed by both Houses.

(3) For the purposes of this part, an institution specified in an order under subsection (1) shall be known as an “incorporated institute”.

(4) If an incorporated institute is an institute of technology specified in subsection (1), Section 3, the First Schedule of the Institute of Technology Acts (1992-2006) shall be amended so that the reference to the incorporated institute specified in an order under subsection (1) is deleted upon the commencement of the order.

(5) In this chapter, the day that an order made under subsection (1) is commenced is referred to as the “commencement day”.

Explanatory note

Head 40 provides for the future expansion of a technological university to allow an institute of technology or another institution not already referred to in the Act to merge with a technological university.
Head 41  Dissolution of Incorporated Institutes

Provides that

1) The incorporated institute specified in an order made under section 40 (each of which is referred to in this Chapter as a “dissolved incorporated institute”) is dissolved.

2) References in any other enactment (other than this Act) or instrument under an enactment, or in the memorandum or articles of association of any company or in any other legal document to a dissolved incorporated institute shall be construed as a reference to the relevant Technological University.

3) This section shall come into operation on the relevant commencement day.

Explanatory Note

Head 41 provides for the dissolution of an institute of technology or institutions specified in an order made by the Minister under Head 40.
Head 42 Liability for loss occurring before commencement day.

Provides that

(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the relevant commencement day of the functions of a dissolved incorporated institute shall on and after that day lie against the relevant Technological University.

(2) Where immediately before the commencement day, any legal proceedings are pending in any court or tribunal to which a dissolved incorporated institute is a party, the name of the relevant Technological University shall be substituted for that of the dissolved incorporated institute and the proceedings shall not abate by reason of such substitution.

(3) Where, before the relevant commencement day, agreement has been reached between the parties concerned in settlement of a claim to which subsection (1) relates and the terms of the agreement have not been implemented, or judgement in such a claim has been given in favour of a person but has not been enforced, then the terms of the agreement or judgement, as the case may be, shall, in so far as they would have been enforceable against a incorporated institute, be enforceable against the relevant Technological University and not the dissolved incorporated institute.

(4) Any claim made or proper to be made by a dissolved incorporated institute in respect of any loss or injury arising from the act or default of any person before the relevant commencement day shall on and after that day be regarded as having been made by or proper to be made by the relevant Technological University and may be pursued and sued for by that Technological University as if the loss or injury had been suffered by the Technological University.

Explanatory Note

Head 42 provides for liability for loss occurring before the commencement day of a relevant Technological University.
Head 43 Transfer of land and other property to a Technological University

Provides that

(1) On the commencement day, all lands that, immediately before that day, were vested in a dissolved incorporated institute and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the relevant Technological University for all the estate and interest therein that, immediately before the commencement day was vested in the dissolved incorporated institute, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed.

(2) On the relevant commencement day all property (other than land), including choses-in-action, that, immediately before that day, was vested in a dissolved incorporated institute shall stand vested in the relevant Technological University without any assignment.

(3) Every chose-in-action vested in a Technological University by virtue of subsection (2) may, on and from the relevant commencement day, be sued on, recovered or enforced by the Technological University concerned in its own name, and it shall not be necessary for the Technological University to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Explanatory Note

Head 43 provides for the transfer of land and other property to a Technological University established under this Chapter.
Head 44 Transfer of staff of dissolved incorporated institute to a Technological University

Provides that

(1) (a) Subject to paragraph (b) every person who, immediately before the commencement day, was a member of the staff of a dissolved incorporated institute shall, on the commencement day, become and be a member of the staff of the relevant Technological University.

(b) Every person who, immediately before the commencement day, was a fixed-term employee of a dissolved incorporated institute shall, on the commencement day, become and be a fixed-term employee of the relevant Technological University for the duration of his or her contract of employment.

(2) A person referred to in subsection (1) may be transferred, in accordance with procedures determined from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform following consultation with recognised trade unions and staff associations representing the persons concerned, to a Technological University established under this Part or a public service body.

(3) (a) Subject to paragraph (b), a person transferred in accordance with subsection (2) shall, in accordance with procedures determined under that subsection, become and be a member of staff of the relevant Technological University established under this Part or the public service body to which he or she is transferred.

(c) Every person who, immediately before the date on which he or she was transferred in accordance with subsection (2), was a fixed-term employee of a dissolved incorporated institute shall, on that date, become and be a fixed-term employee of the relevant Technological University established under this Part or the public service body to which he or she is transferred, for the duration of his or her contract of employment.

(4) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned—

a. a person referred to in subsection (1) shall not, on the commencement day, be brought to less beneficial conditions
of remuneration than the conditions of remuneration to which he or she was subject immediately before the commencement day, and

b. a person referred to in subsection (2) shall not, on the date on which he or she is transferred in accordance with that subsection, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the date on which he or she was so transferred.

(5) In subsection (4), a reference to conditions of remuneration does not include conditions in relation to superannuation.

(6) In relation to a person referred to in subsection (1) or (2), previous service with the body from which the person was transferred shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:

   a) the Redundancy Payments Acts 1996 to 2011;
   b) the Protection of Employees (Part-Time Work) Act 2001;
   c) the Act of 2003;
   d) the Organisation of Working Time Act 1997;
   e) the Terms of Employment (Information) Acts 1994 to 2012;
   f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
   g) the Unfair Dismissals Acts 1977 to 2007;
   h) the Maternity Protection Acts 1994 and 2004;
   i) the Parental Leave Acts 1998 and 2006;
   j) the Adoptive Leave Acts 1995 and 2005;
   k) the Carer’s Leave Act 2001.

(7) In this section—

“Act of 2003” means the Protection of Employees (Fixed-Term Work) Act 2003;

“contract of employment” has the same meaning as it has in the Act of 2003;

“fixed-term employee” has the same meaning as it has in the Act of 2003;
“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purpose of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

Explanatory Note

Head 44 provides for the transfer of staff from a dissolved incorporated institute to a Technological University established under this Chapter.
Head 45  Superannuation

Provides that

(1) A person referred to in section 44 who, immediately before the commencement day, was a member of a relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the relevant commencement day, continue to be a member of such scheme in accordance with its terms and conditions.

(2) A pensionable public servant who—

(a) is not a member of the Single Public Service Pension Scheme, and
(b) is appointed under section 44 to be a member of staff of a Technological University established under this Chapter, shall, on his or her appointment to the Technological University concerned, become and be a member of a relevant superannuation scheme in accordance with its terms and conditions.

(3) Nothing in this section prevents a relevant superannuation scheme being varied in accordance with its terms and conditions.

(4) In this section—

“pensionable public servant” shall be construed in accordance with Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;
“relevant superannuation scheme” means the Education Sector Superannuation Scheme, within the meaning of Article 3(4) of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001).

Explanatory Note

Head 45 provides for the continuation of the service of members of the superannuation scheme of a dissolved incorporated institute. Subsection (2) provides the definition of a pensionable public servant.
Head 46  Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved incorporated institute

Provides that

(1) All rights and liabilities of a dissolved incorporated institute arising by virtue of any contract or commitment (expressed or implied) entered into by it before the commencement day shall on that day stand transferred to the relevant Technological University.

(2) Every right and liability transferred by subsection (1) to a relevant Technological University may, on and after the relevant commencement day, be sued on, recovered or enforced by or against that Technological University in its own name, and it shall not be necessary for that Technological University to give notice of the transfer to the person whose right or liability is transferred by that subsection.

(3) Every lease, licence, wayleave or permission granted by a dissolved incorporated institute in relation to land or other property vested in the relevant Technological University by or under this Act, and in force immediately before the relevant commencement day, shall continue in force on and after that day as if granted by that Technological University.

Explanatory Note

Head 46 provides that all rights and liabilities of a dissolved incorporated institute, entered into by them before the relevant commencement day, shall on commencement day be transferred to the relevant Technological University.
Head 47  Provisions consequent upon transfer of assets and liabilities to a relevant Technological University

Provides that

(1) Anything commenced and not completed before the commencement day by or under the authority of a dissolved incorporated institute may be carried on or completed on or after the commencement day by the relevant Technological University.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made by a dissolved incorporated institute, shall, if and in so far as it was operative immediately before the relevant commencement day, have effect on or after that day as if it had been granted or made by the relevant Technological University.

(3) Any money, stocks, shares or securities transferred by section 43 that immediately before the commencement day were standing in the name of a dissolved incorporated institute shall, on the request of a relevant Technological University, be transferred into its name.

(4) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the relevant Technological University under section 43 or 46 shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

(5) A document which purports to be a certificate signed by the Minister referred to in subsection (4) shall be taken to be such a certificate unless the contrary is shown.

Explanatory Note

Head 47 provides that anything commenced and not completed by a dissolved incorporated institute, before the commencement day, shall on commencement day be assigned to the relevant Technological University.
Head 48  Records

Provides that

Each record held by a dissolved incorporated institute immediately before the relevant commencement day is on that day transferred to the relevant Technological University and is, on and from that day, held by that Technological University.

Explanatory Note

Head 48 provides that every record held by a dissolved incorporated institute, before the commencement day, shall on commencement day be assigned to the relevant Technological University.
Head 49        Accounts

Provides that

(1) Final accounts of a dissolved incorporated institute dissolved under section 41 shall be prepared by the relevant Technological University in respect of the period specified under subsection (3).

(2) A relevant Technological University shall submit the final accounts referred to in subsection (1) to the Comptroller and Auditor General for audit not later than the date it submits its first set of accounts to the Comptroller and Auditor General under section 66, and immediately after the audit, a copy of the accounts and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(3) For the purposes of subsection (1), the Minister may specify a period that is longer or shorter than a financial year of the dissolved body concerned.

(4) Any accounts of a dissolved incorporated institute, other than the final accounts, which on the commencement day concerned have not been submitted to the Comptroller and Auditor General for audit, shall be prepared and submitted by the relevant Technological University not later than 3 months after the commencement day.

(5) Immediately after a relevant Technological University receives a copy of the accounts submitted under subsection (4) duly audited and a copy of the Comptroller and Auditor General’s report, the Governing Body of that Institute shall present a copy of the accounts and a copy of the report to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(6) A relevant Technological University shall prepare a final annual report for the relevant dissolved incorporated institute and shall submit the report to the Minister not later than the date it submits its first annual report to the Minister.

(7) The Minister shall, as soon as may be after receiving a final annual report under subsection (6), cause copies of the report to be laid before each House of the Oireachtas.
(8) The final annual report of a dissolved incorporated institute shall be published on the internet by the relevant Technological University as soon as practicable after copies of the report are laid under subsection (7).

Explanatory Note

Head 49 provides that final accounts and final reports shall be prepared by a Technological University established under this Chapter in respect of each relevant dissolved incorporated institute.
Chapter 4 - Objects and Functions

Head 50  Objects and Functions of a Technological University

Provides that

(1) The objects of the Technological University include-

(a) to provide and maintain a teaching and learning environment of excellent quality offering higher education at an international standard;

(b) to provide for the broad education, intellectual and personal development of students, equip graduates to excel in their chosen careers and enable them to contribute responsibly to social, civic and economic life in innovative and adaptable ways.

(c) to achieve academic excellence in research and support the exploitation of intellectual property and technology and knowledge transfer.

(d) to support entrepreneurship, enterprise development and innovation.

(e) to support the development of a skilled workforce.

(f) to promote inward and outward mobility of staff and students between the Technological University, business, industry, the professions and the wider community.

(g) to serve their communities and the public interest by-

   (i) supporting the delivery of local, regional and national economic objectives and making a measurable impact upon local, regional and national economic development, businesses and enterprises;

   (ii) fostering close and effective relationships with local, regional, national and international stakeholders, including relevant local authorities and regional assemblies, and enterprise partners.

   (iii) enriching cultural and community life;
(iv) promoting critical and free enquiry, informed intellectual discourse and public debate within the Technological University and in the wider society;
(v) promoting an entrepreneurial ethos;
(h) to provide accessible and flexible learning pathways for students from a diverse range of backgrounds and to provide programmes and services in a way that reflects principles of equity and social justice and promotes access for all citizens in their region;
(i) to confer degrees and other qualifications;
(j) to utilise or exploit its expertise and resources, whether commercially or otherwise
(k) to provide directly, or in collaboration with other institutions of education, facilities for university education, including technological and professional education, and for research.
(l) to develop international collaborations and partnerships

(2) The functions of the Technological University are to do all things necessary or expedient in accordance with this Act, if any, to further the objects and development of the technological university.

(3) Without limiting the generality of subsection (1), the technological university—

(a) shall provide enterprise focused courses of study, opportunities for work based learning, conduct examinations and award degrees and other qualifications,

(b) shall promote and facilitate enterprise focused research and innovation, consultancy and development work,

(c) shall facilitate skills development for the labour force at regional and national level,

(d) may establish by incorporation in the State or elsewhere, or participate in the commencement of, such trading, research or other corporations as it thinks fit for the purpose of promoting or assisting, or in connection with the functions of the technological university,
(e) may collaborate with educational, business, professional, trade union, Irish language, cultural, artistic, community and other interests, both inside and outside the State, to further the objects of the technological university,

(f) shall maintain, manage and administer, and may dispose of and invest, the property, money, assets and rights of the technological university,

(g) may collaborate with graduates, convocations of graduates and with associations representing graduates of the technological university both inside and outside the State,

(h) may purchase or otherwise acquire, hold and dispose of land or other property, and

(i) may accept gifts of money, land or other property on the trusts and conditions, if any, not in conflict with this Act, specified by the donor.

Explanatory Note
Head 50 provides for the objectives and functions of the technological university, including the awarding of degrees, provision of courses, engaging in research, establishing companies and collaborating with relevant interests to further its functions.
Head 51  Academic Freedom.

Provides that

(1) The technological university, in performing its functions shall—

(a) have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs, and

(b) be entitled to regulate its affairs in accordance with its independent ethos and traditions and the traditional principles of academic freedom, and in doing so it shall have regard to—

(i) the promotion and preservation of equality of opportunity and access,

(ii) the effective and efficient use of resources, and

(iii) its obligations as to public accountability.

(2) A member of the academic staff of the technological university shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the university, 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 institute, for the exercise of that freedom.

Explanatory Note

*Head 51 provides that the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs*
Chapter 5 - Governance

Head 52  Governing Body.

Provides that

(1)  A technological university shall have a governing body established in accordance with this Act which shall be known by whatever name the governing body decides.

(2)  Subject to section 57, the functions of a technological university shall be performed by or on the directions of its governing body.

(3)  All acts and things done by a governing body, or in the name of or on behalf of the technological university with the express or implied authority of the governing body, shall be deemed to have been done by the technological university.

(4)  The First Schedule shall apply to the governing body.
Head 53  Governing Body

Provides that

(1) A governing body shall consist of such members, being not less than 11 or more than 20, as determined in accordance with this section. There shall be a majority of external members on the governing body.

(2) The members of the governing body shall include —

(a) the chief officer,

(b) a chairperson, who shall be an external member of the Governing Body, appointed by a sub-board of the Governing Body in accordance with provisions outlined subsection (6) and,

(c) the following members elected in accordance with regulations made under subsection (6):

(i) at least one but not more than three permanent or full-time employees who are members of the academic staff of the technological university elected by the academic staff;

(ii) one permanent or full-time employee who is a member of the non-academic staff of the technological university elected by the non-academic staff;

(iii) not less than one or more than two undergraduate students of the technological university who are elected officers of the Students Union or other student representative body in the technological university recognised by the governing body, and

(iv) one post-graduate student elected by the post-graduate students.

(3) Subject to subsection (6), in addition to the persons chosen and appointed pursuant to subsection (2), but included in the maximum number of members specified in subsection (1), there shall be—

(a) at least three external members, but not more than eight external members, at least one of whom will be appointed having particular regard to international interests, chosen by a committee of the governing body comprising the chief officer and two other members and using a competency framework drawn up by the governing body and agreed with an tÚdarás, which will incorporate the skills required, such as financial, legal, human resources, community organisations,
business and industry as the governing body considers appropriate to the objectives and mission of the institution,

(b) There shall also be two external members nominated and appointed by the Minister, and

(c) There shall be a maximum of one external member nominated from the Education and Training Board or Boards operating in the area or areas in which the Technological University is situated, to be determined by a mechanism agreed by the relevant Education and Training Boards.

(4). (a) The term of office of a member of each governing body, other than an ex officio member, shall be four years. No member may serve more than two consecutive terms of office.

(b) A member of a governing body who is a student of the institution 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 or further periods, on each occasion not exceeding one year.

(5) In performing its functions under this section a governing body shall ensure that each sex is represented on the governing body in accordance with such gender balance as may from time to time be determined or approved by the Minister.

(6) A governing body may make such regulations relating to the selection, election, nomination or appointment of members of the governing body as it thinks fit, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations, having regard that the majority of the governing body shall not be members of the staff or students of the institution.

Explanatory Note:

Heads 52 and 53 provide that the Governing Body of the technological university will comprise a minimum of 11 members and a maximum of 20 members, including the Chairperson and Chief Officer, the majority of members will be external to the institution, The Chairperson will be appointed by the Governing Body from nominees identified by a process to be determined by the Governing Body. This is the current practice in the university sector and is standard practice internationally. The Minister will nominate and appoint 2 external members of the Governing Body. The Education and Training Board will nominate 1 external member. If major
campuses are in more than one ETB area, then the relevant ETBs will 
alternately nominate a member. External ordinary members will form a 
majority on the governing body. Apart from the Ministerial and ETB 
nominations, the external members would be chosen by a nominations 
committee using a competency framework drawn up by each institution and 
agreed with an tÚdarás. The competency framework will incorporate the 
skill-sets required for modern governance, such as financial, legal, HR 
skills, the inclusion of members from enterprise and community or others 
appropriate to the objectives and mission of the institution. The staff and 
student representatives will continue to be elected.
Head 54  Functions of Governing Body.

Provides that

(1) The functions of the Governing Body shall be, in pursuance of the functions of the technological university under section 50 but within the constraints of the technological university’s budget under section 64 —

(a) to control and administer the land and other property of the Institute,

(b) to appoint the President and such other staff as it thinks necessary for the purposes of the Technological University, and

(c) to perform such other functions as are conferred on it by this or any other Act or by any statutes or regulations.

(2) For the purpose of the appointment of the President 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 Institute and shall publish such procedures in such manner as it considers appropriate.

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

(4) The 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.
In performing its functions the Governing Body, or, where appropriate, a committee, shall—

(a) have regard to the attainment of gender balance and equality of opportunity among the students and staff of the Technological University and shall, in particular, promote access to education in the Institute 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,

(b) ensure as far as it can that the Technological University 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

(c) have regard to the statutory responsibilities of other education providers”.

Subject to this Act, a governing body of a technological university may, and where required by this Act to do so shall, make such and so many statutes and regulations as it considers appropriate to regulate the affairs of the technological university.

A governing body shall, as soon as practicable after the making of a statute or a regulation under subsection (7), inform An tÚdarás and the Minister of the making of the statute and shall arrange for its publication in the Iris Oifigiúil.

Explanatory Note

Head 54 sets out the overall functions of the governing body and matters relating to the performance of those functions by the governing body.
Head 55 Directions of Minister in relation to remuneration, numbers or agreements

Provides that

(1) The Minister may, in relation to the performance by a technological university of its functions, give a direction in writing to that technological university requiring it to comply with a

   (a) policy decision made by the Government or the Minister in so far it relates to the remuneration or numbers of public servants employed in that technological university, or

   (b) collective agreement entered into by the Government or the Minister.

(2) A technological university shall comply with a direction under this section.

(3) For the purposes of this section “remuneration” means consideration, whether in cash or in kind, which a worker receives from his or her employer in respect of his or her employment and includes fees, allowances, superannuation and payments connected with appointment or termination of employment.

Explanatory note

Head 55 provides that the purpose of these provisions is to confer on the Minister certain powers in relation to the functions of technological universities as they relate to remuneration and numbers of public servants.

This provision is modelled on section 14 of the Vocational Education (Amendment) Act 2001.

“Remuneration” is defined broadly in this context and may include once-off payments and superannuation.
Head 56 Inspections.

Provides that

An tÚdaráis, following consultation with the Minister, may authorise any person or persons as an tÚdaráis may deem appropriate to report to it on any matters regarding the operation of a technological university and such person or persons shall be entitled at all reasonable times to enter the college concerned and shall be afforded every facility by that college, including access to all records, to perform their functions.

Explanatory Note
Head 56 provides the power to an tÚdaráis, following consultation with the Minister to appoint an Inspector to the technological university.
Head 57  Appointment of Commission

Provides that

(1) Where an tÚdarás, following consultation with the Minister, is satisfied, after considering the report of a person appointed under section 56, that the affairs of a college are not being managed in an effective manner, an tÚdarás may advise the Minister to appoint a person or a body of persons, hereinafter referred to as the Commission, to carry out such and so many of the functions of any or all of the governing body, the chairman or the President or of any of them as an tÚdarás may determine and upon such appointment that body or person shall cease to exercise the functions thereby vested in the Commission.

(2) A Commission appointed under subsection (1) shall have all such powers as are necessary or expedient for the purpose of carrying out the functions so vested and shall be appointed on such terms and for such period as the Minister decides, provided that in no case shall a Commission be appointed for a period longer than two years.

(3) Upon the appointment of a Commission the governing body, the Chairperson and the President shall be informed of the reasons therefor and that body or person may, within fourteen days from the date of the appointment of the Commission show cause to the Minister why any functions vested in the Commission should not have been so vested and request the Minister to revest those functions in that body or person.

(4) A Commission in carrying out its functions may consult with and request information concerning the management of the affairs of the college from the governing body, the Chairperson or the President, and in any such case that body or person shall provide any such information as is requested.

(5) The Minister may—

(a) remove a Commission, or any member thereof, from office, or

(b) vary the number of persons on the Commission.

(6) Where a Commission or a member thereof is removed from office within the two year term referred to in subsection (2), or where a member resigns or dies in office the Minister may appoint another
Commission or member as appropriate for the remainder of that term.

(7) Upon the termination of the appointment of a Commission, unless the Minister appoints another Commission, and in any case at the end of two years from the date of the first appointment, the functions vested in the Commission shall vest in the then acting governing body, Chairperson or President.

(8) At any time prior to the termination of the appointment of a Commission, the Minister may by order vest any of the functions to which an order under subsection (1) applies in the body or person to which the order relates.

(9) The remuneration, if any, of every person appointed under subsection (1) or subsection (6) shall be paid out of moneys provided by the Oireachtas.

(10) Every order made under subsection (1), shall be laid before each House of the Oireachtas as soon as may be after it is made, and it shall not have effect unless and until a resolution has been passed by each House confirming the order, provided that if either House fails to pass such a resolution within 28 days of the order having been so laid and neither House has passed a resolution annulling the order, the order shall have effect at the end of that period.

(11) Where an order to which subsection (10) relates takes effect due to the failure of either House to pass a resolution confirming the order, that House may, within the next 21 days during which it has sat after the making of the order, pass a resolution annulling the order and the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Explanatory Note

*Head 57 provides the power to Minister to appoint a Commission following the report of the following advice from an tÚdarás after their consideration of an inspectors report.*
Chapter 6 - Staff of a Technological University

Head 58  Chief Officer.

Provides that

(1) A governing body shall, appoint in a whole-time capacity a person to be chief officer of its technological university, who shall be called the President or by such other title as the governing body determines.

(2) The Second Schedule shall apply to the chief officer.

*Explanatory Note*
*Head 58 provides for the appointment of a chief officer.*
Head 59  Staff.

(1) Subject to subsection (2), a technological university may appoint such and so many persons to be its employees as it thinks appropriate, having regard to—

(a) the efficient use of its available resources, the requirements of accountability for the use of moneys provided to it by the Oireachtas and the policy relating to pay and conditions in the Public Service as determined from time to time by the Government,

(b) the implications of the appointments for its budget and for subsequent budgets, and

(2) A governing body may, subject to such conditions as it thinks fit, delegate to the chief officer any of the functions of the governing body or the technological university relating to the appointment of employees of the technological university and the determination of selection procedures.

(3) Except as otherwise provided by this section, the employees of a technological university shall be employed on such terms and conditions as the technological university from time to time determines.

(4) There shall be paid by a technological university to the employees of that technological university, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform.

(5) The recruitment policy for staff must comply with employment policies that may be determined by the Minister for Public Expenditure and Reform from time to time.

(6) A corporation referred to in section 50 may pay to employees of a technological university remuneration, fees, allowances and expenses only in accordance with a framework which shall be agreed between the technological university, An tÚdarás and the Department.

(7) A technological university may suspend or dismiss any employee but only in accordance with procedures, and subject to any conditions made following consultation through normal industrial
relations structures operating in the technological university with recognised staff associations or trade unions, which procedures or conditions may provide for the delegation of powers relating to suspension or dismissal to the chief officer and shall provide for the tenure of officers.

(8) An tÚdarás may, following consultation with all or any of the chief officers, issue guidelines on—

(a) the numbers or grades of employees of the technological university, or

(b) the proportion of the budget of the technological university to be applied to the different activities of the technological university.

(9) A technology university shall provide tÚdarás with such information as tÚdarás may from time to time request relating to the number of employees employed by the university, their composition by grade, their terms and conditions of employment (including their remuneration, fees, allowances, expenses and superannuation) and any other related matters.

Explanatory Note
Head 59 provides for matters relating to staffing – appointments, suspensions, dismissals, terms, conditions and pensions. Each university shall determine its staffing resources having regard to the efficient use of resources, accountability for public funds, government pay policy and the impact upon decisions and guidelines issued by an tÚdarás. It also provides for a corporations framework and for an tÚdarás to issue guidelines in relation to staff numbers and budget allocation and for the technological university to provide relevant information as required on staff.
Head 60 Dispute resolution

Provides that

(1) A governing body shall establish procedures for the resolution of disputes which arise in the technological university, other than disputes to be dealt with through normal industrial relations structures operating in the technological university or appeals conducted in accordance with section 61(2)(e).

(2) Procedures established under subsection (1) shall—

(a) be established following consultation with trade unions and staff associations representing employees of the technological university and with the students union or other student representative body, and

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

Explanatory Note

Head 60 provides for a governing body to establish procedures for the resolution of disputes which arise in the technological university.
Chapter 7 - Academic Council

Head 61 Academic Council.

Provides that

(1) The Technological University shall have an academic council which shall, subject to the financial constraints determined by the governing body and to review by that body, control the academic affairs of the university, including the curriculum of, and instruction and education provided by, the technological university.

(2) Without limiting the generality of subsection (1), the functions of the academic council shall include, within those constraints and consistent with the functions of the technological university and those applying to its academic council immediately before the commencement of this Part—

(a) to design and develop programmes of study,

(b) to establish structures to implement those programmes,

(c) to establish structures and procedures that promote the involvement of enterprise in programme design, development and review,

(d) to make recommendations on programmes for the development of research,

(e) to make recommendations relating to the selection, admission, retention and exclusion of students generally,

(f) to propose the form and contents of statutes to be made relating to the academic affairs of the technological university, including the conduct of examinations, the determination of examination results, the procedures for appeals by students relating to the results of such examinations and the evaluation of academic progress,

(f) to make recommendations for the awarding of fellowships, scholarships, bursaries, prizes or other awards,
(g) to make general arrangements for tutorial or other academic counselling,

(h) to perform any other functions, not in conflict with this Act, which may be delegated to it by the governing body, and

(i) to implement any statutes and regulations made by the governing body relating to any of the matters referred to in this subsection.

(3) The majority of members of the academic council shall be members of the academic staff of the technological university and, subject to subsection (2), the numbers, composition, selection, appointment and terms of office of members shall be provided for in a statute, which statute shall contain provisions for the inclusion on the academic council of—

(a) the senior member of staff having responsibility to the chief officer for each academic discipline, school or department as the governing body,

(b) members from what, in the opinion of the governing body, is an appropriate range of levels of other academic staff from an appropriate range of academic disciplines, including those with an enterprise, practice based background or involved in enterprise engagement activity, and

(c) an appropriate number of students.

(4) The composition and terms of office of members of an academic council to be first appointed under this Act shall be determined in consultation with the members of the academic council of the relevant incorporated institutes holding office immediately before the commencement of this Part.

(5) The chief officer and the senior officer of the technological university responsible to the chief officer for academic affairs shall be, ex officio, members of the academic council.

(6) Subject to this Act and any directions of the governing body, an academic council shall hold such meetings as it thinks necessary to perform its functions and may regulate its own procedure.
(7) The chief officer shall be 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 the chief officer at any time chooses not to so preside, he or she shall nominate a person to preside in his or her place.

(8) An academic council may establish such and so many committees as it thinks necessary to assist it in the performance of its functions.

(9) A committee may consist either wholly of members of the academic council or such combination of members and non-members as the academic council thinks fit.

Explanatory Note
Head 61 provides that each institution shall have an academic council which shall, subject to the financial constraints determined by the governing body and to review by that governing body, control the academic affairs of the institution. The section further provides for certain specific functions and for the composition and operation of the academic council.
Head 62  Strategic development plan

Provides that

(1) A governing body shall, as soon as practicable after its appointment and at such other times as it thinks fit, require the chief officer to prepare a plan which shall set out the aims of the governing body for the operation and development of the technological university and its strategy for achieving those aims, and for carrying out the functions of the technological university, during the period, being not less than three years, to which the plan relates.

(2) A governing body may, having regard to the resources available to the technological university, either approve a strategic development plan prepared under subsection (1) without modification or, after consultation with the chief officer, approve the plan with such modifications as it thinks fit.

(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.

Explanatory Note

Head 62 provides that the Chief Officer will prepare a strategic development plan setting out the medium and long term goals for the institution and detailing the plans to achieve them. The plan to be approved by the governing body and submitted to an tÚdarás and the Minister.
Head 63   Equality policy

Provides that

(1) A governing body shall, as soon as practicable but not later than 12 months after it is established under this Act and at such other times as it thinks fit, require the chief officer to prepare a statement of the policies of the technological university in respect of—

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

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

and the chief officer, 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, having regard to the resources available to the technological university, either approve the statement prepared under subsection (1) without modification or, after consultation with the chief officer, approve the statement with such modifications as it thinks fit.

(3) A technological university shall implement the policies set out in the statement as approved under subsection (2).

Explanatory Note

Head 63 provides that each institution will set out its policies on access and equality. In determining these policies the institution will have regard to the national policies approved by the Minister. Universities are to implement such policies.
Chapter 9 - Finance, Property and Reporting

Head 64  Budgets

Provides that

(1) An tÚdarás shall, from moneys provided to an tÚdarás pursuant to section 12 of the Higher Education Authority Act 1971, notify the Chief Officer of the technological university of the funding to be provided to the technological university for the financial year.

(2) The Chief Officer 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, 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 expected income of the college for the financial year.

(3) An tÚdarás shall, having regard to the statement submitted under subsection (2), allocate the amount of money for the financial year, 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.

(4) When the budget of a technological university has been determined, it shall be a function of the chief officer, acting on the authority of the governing body, to carry it into effect.

(5) An tÚdarás may at any time, on application made to it by the governing body of a technological university, increase the amount of money to be allocated to the technological university from moneys provided to an tÚdarás.

(6) Where the chief officer of a technological university is of the opinion that a proposed course of action of the governing body will or is likely to result in expenditure in excess of the budget which has not been increased in accordance with subsection (5), (in this section referred to as a “material departure from the budget”) the chief officer shall so inform the governing body.
(7) Where a governing body, despite being informed as required by subsection (6), decides to proceed with its course of action, the chief officer shall, unless satisfied that a material departure from the budget will not occur, as soon as practicable, inform An tÚdaráis of the decision of the governing body.

(8) Where, notwithstanding this section, a technological university incurs expenditure in excess of its budget which is not met from the income of the technological university other than the money allocated to it by An tÚdaráis, that excess shall be a first charge on the budget for the next succeeding financial year.

Explanatory Note

Head 64 provides that budgetary responsibility arrangements provide for the Chief Officer to prepare the budget of the institution which the Governing body approves and then recommends to HEA. This is consistent with the Chief Officer’s legal position as the Accounting Officer responsible for the institution’s finances and mirrors best practice in the private sector. Subsection (1) is to provide that an tÚdaráis advised the Chief Officer of the funding for the financial year. Subsection (2) provides that the Chief Officer will prepare a budget for the institute of technology and will submit this to the governing authority who will give or withhold their approval. The governing body is to have responsibility to recommend the approved budget to an tÚdaráis”. The HEA will determine the amount of funding to the institution and that funding, with any additional other funding received by the institution will be the budget for the institution for the financial year. If a governing body exceeds its budget in a manner which cannot be met from its own resources, then any excess shall be the first charge on its budget for the next financial year.
Head 65  Borrowing and loan guarantees.

Provides that

(1)  A technological university may borrow money by means of bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or a body of persons.

(2)  Borrowing, guaranteeing and underwriting under subsection (1) shall be in accordance with a framework which shall be agreed from time to time between the technological university and an tÚdarás, following consultation by An tÚdarás with the Minister the Minister for Public Expenditure and Reform and the Minister for Finance.

(3 )  A subsidiary or corporation established under section 50 of the technological university, or any company in which it has a propriety 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. Borrowing, guaranteeing and underwriting under subsection shall be in accordance with arrangements entered into from time to time between the technological university and An tÚdarás; An tÚdarás shall consult with the Minister and the Minister for Public Expenditure and Reform before entering into such arrangements.”

Explanatory Note

*Head 65 provides that an institution may borrow money by means of as bank draft or otherwise and may guarantee or underwrite a loan taken out or borrowing undertaken by a person or a body of persons. This will be in accordance with an agreed framework between the institution and an tÚdarás. Also provides that a subsidiary of the technological university may not borrow money without also getting the appropriate approval.*
Head 66  Keeping of accounts and records

Provides that

(1) A technological university 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 technological university 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 technological university to An tÚdarás and to the Minister.

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

Explanatory Note

Head 66 provides that accounts are to be kept in a form as prescribed by an tÚdarás. It will be required to submit the accounts for the previous year to the Comptroller and Auditor General by a date specified by the C&AG, or whatever earlier date the Minister determines and requires the Minister to lay a copy of the Comptroller and Auditor General's report before the Houses of the Oireachtas.
Head 67  Report and information.

Provides that

(1) The chief officer shall, with the approval of the governing body and having regard to the strategic development plan under section 62, as soon as practicable after the end of each period, not exceeding three years commencing on the commencement of this Part or at the end of the previous such period, whichever is the later, as the governing body thinks fit, prepare a report on the operations and the performance of the technological university during that period.

(2) The governing body shall publish the report in such form as it thinks fit and shall provide the Minister with a copy and the Minister shall cause a copy of the report to be laid before each House of the Oireachtas as soon as practicable after it is received by him or her.

Explanatory Note

Head 67 provides that the institution submit at least every three years a report on its activities in the context of the strategic development plan. This will be provided to the Minister who shall cause a copy of the report to be laid before each House of the Oireachtas.
Head 68 Disposal of land, etc.

Provides that

(1) Subject to subsection (2), a technological university may sell or otherwise dispose of any land the property of the technological university.

(2) Where the acquisition, development or refurbishment of land, the property of a technological university, was funded in whole or in part out of moneys provided by the Oireachtas after the date of the passing of this Act, a sale or other disposal of that land shall be subject to such terms and conditions relating to a payment to the Minister in recompense for such moneys, as may be agreed between the Minister and the governing body.

(3) If a technological university ceases to be funded substantially from moneys provided by the Oireachtas, then all moneys provided to the technological university by the Oireachtas after the date of the passing of this Act for the acquisition, development or refurbishment of land, or for the acquisition of any other assets which are the property of the technological university, shall be repayable to the Minister subject to such terms and conditions, including as to the amount to be so repaid, as may be agreed between the Minister and the governing body.

(4) Where the Minister and a governing body cannot agree on terms and conditions referred to in this section, the issues in dispute shall be determined by an arbitrator appointed by the President of the High Court and any arbitration shall be conducted in accordance with the Arbitration Acts, 1954 and 1980.

Explanatory Note
Head 68 provides that an institution may dispose of its land and buildings. Where land and buildings have been funded from public moneys then the sale will be subject to terms and conditions as agreed between the Minister and the governing body. Where agreement cannot be reached then it will be determined by an arbitrator appointed by the High Court.
Head 69  Fees

(1) A technological university may determine and charge fees of such amounts for student registration, courses, lectures, examinations, exhibitions or any other event, service or publication held or provided at or by, or produced by, the technological university.

(2) An tÚdarás may review with the technological university the fees charged or proposed to be charged by the universities for student registration and courses, and for lectures and examinations relating to those courses.

(3) Arising from a review under subsection (2), An tÚdarás may, without prejudice to subsection (1) and after consultation with the Minister, advise the technological university on the fees which in its opinion should be charged.

Explanatory note:
Head 69 gives the technological university the power to determine and charge fees and provides for an tÚdarás to review the fees charged or proposed and after consultation with the Minister advise on the level of fees to be charged.
PART IV - AMENDMENTS TO OTHER ACTS

Head 70  Governance Reform of Institutes of Technology

Provides that

(1) For the purposes of this section –
   (a) “the Act of 1992” means the RTC Act 1992, and
   (b) “the Act of 1994” means the RTC (Amendment) Act 1994

(2) Section 6 of the Act of 1992 is deleted and replaced by –

“Governing Body

6 (1) An shall have a governing body established in accordance with this section which shall be known by whatever name the governing body decides.

(2) Subject to Section 2 of the Act of 1994, the functions of the Institute of Technology shall be performed by or on the directions of its governing body.

(3) All acts and things done by a governing body, or in the name of or on behalf an Institute of Technology with the express or implied authority of the governing body, shall be deemed to have been done by that Institute of Technology.

(4) The Second Schedule shall apply to the governing body.

(5) A Governing Body shall consist of such members, being not less than 11 or more than 20, as determined in accordance with this section. There shall be a majority of external members on the governing body.

(6) The members of the governing body shall include—
   (a) the chief officer,
   (b) a chairperson, who shall be an external member of the Governing Body, appointed by a sub-board of the Governing
Body in accordance with provisions outlined in subsection (10) and,

(c) the following members elected in accordance with regulations made under subsection (10):

(i) at least one but not more than three permanent or full-time employees who are members of the academic staff of the institute of technology elected by the academic staff;

(ii) one permanent or full-time employee who is a member of the non-academic staff of the institute of technology elected by the non-academic staff;

(iii) not less than one or more than two undergraduate students of the institute of technology who are elected officers of the Students Union or other student representative body in the institute of technology recognised by the governing body, and

(iv) one post-graduate student elected by the post-graduate students.

(7)  (a) Subject to subsection (10), in addition to the persons chosen and appointed pursuant to subsection (6), but included in the maximum number of members specified in subsection (5), there shall be at least three external members, but not more than eight external members, at least one of whom will be appointed having particular regard to international interests, chosen by a committee of the governing body comprising the chief officer and two other members and using a competency framework drawn up by the governing body and agreed with an tÚdarás, which will incorporate the skills required, such as financial, legal, human resources, community organisations, business and industry as the governing body considers appropriate to the objectives and mission of the institution,

(b) There shall also be two external members nominated and appointed by the Minister, and

(c) There shall be a maximum of one external member nominated from the Education and Training Board or Boards operating in the area or areas in which the
institute of technology is situated, to be determined by a mechanism agreed by the relevant Education and Training Boards.

(8) (i) The term of office of a member of each governing body, other than an ex officio member, shall be four years. No member may serve more than two consecutive terms of office.

(ii) A member of a governing body who is a student of the institution 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 or further periods, on each occasion not exceeding one year.

(9) In performing its functions under this section the governing body shall ensure that each sex is represented on the governing body in accordance with such gender balance as may from time to time be determined or approved by the Minister.

(10) The governing body may make regulations relating to the selection, election, nomination or appointment of members of the governing body, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations, having regard that the majority of the governing body shall not be members of the staff or students of the institution.”

(3) The Second Schedule of the Act of 1992 is replaced by the following

“Governing Body


(2) The seal of the Governing Body 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 Institute 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 Institute 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 chief officer, holds 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) A member of the Governing Body, other than the chief officer, shall be paid by the Governing Body such allowances or expenses as the Minister determines, with the approval of the Minister for Public Expenditure and Reform.

3. (1) A member of the Governing Body, other than the chief officer, may resign from office by giving the appropriate notice to the Governing Body.

(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,
(e) is convicted of an offence involving fraud or dishonesty,
(f) is the subject of an order under section 160 of the Companies Act 1990.

4. (1) If a member of the Governing Body, other than the chief officer and chairperson, dies, resigns, ceases to be qualified for or ceases to hold office or is removed from office for any reason, the Governing Body may appoint a person to be a member of the Governing Body to fill the casual vacancy so occasioned, from the same constituency from which the member was appointed.

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

(a) holds 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

(b) is 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 any 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 which constitute a quorum.

(3) The quorum for a meeting of the Governing Body shall be set by the Governing Body at its first meeting.

(4) At a meeting of the Governing Body it shall appoint from amongst its members a member (other than the chief officer) to be its deputy-chairperson. 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) 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 shall have a second or casting vote.
6. (1) The Governing Body may establish committees, consisting wholly or partly of persons who are either members of, or members of the staff of, the Governing Body, to assist and advise it in relation to the performance of any or all 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 desirability of there being an appropriate balance between men and women on the committee.

(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) A committee established under this paragraph may regulate, by standing orders or otherwise, its procedure and business.
(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 Authority 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 representative in 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, a member of a committee established under paragraph 7 or a member of the staff of the Governing Body.

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) Any 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, then 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. Subparagraphs (1) to (5) of paragraph 6 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,

(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, 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) proposals of a commercial nature or tenders submitted to the Governing Body by contractors, consultants or any other person.

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

12. Subject to this Act, the governing body may make, from time to time, such regulations as it thinks fit for the conduct of the affairs of the institution.”
(4) Section 4 of the Act of 1994 is repealed.

Explanatory Note:

Head 70 provides for the repeal and replacement of Section 6 of Institutes of Technology Acts 1992 - 2011 and Amendment of the Second Schedule to reform the composition, nomination and selection of membership of the governing bodies of the institutes of technology.

The Governing Body will comprise a minimum of 11 members and a maximum of 20 members, including the Chairperson and Chief Officer. The Chairperson, will be an external member of the Governing Body, will be appointed by the Governing Body from nominees identified by a process to be determined by the Governing Body. The Minister will nominate and appoint 2 external members of the Governing Body. The Education and Training Board will nominate 1 external member. External ordinary members will form a majority on the governing body. The external members apart from the Ministerial and ETB nominations will be chosen by a nominations committee using a competency framework drawn up by each institution and agreed with an tÚdarás. The competency framework will incorporate the skill-sets required for modern governance, such as financial, legal, HR skills, the inclusion of members from enterprise and community or others appropriate to the objectives and mission of the institution. The staff and student representatives will continue to be elected.
Head 71 Amendment of Section 13 of the Institutes of Technology Acts 1992 – 2006

Provides that

Section 13 of the RTC Act 1992, as amended by Section 15 the IOT Act 2006 is amended by deleting subsection (1) and (2) and substituting the following -

“13. (1) An tÚdarás shall, from moneys provided to An tÚdarás pursuant to section 12 of the Higher Education Authority Act 1971, notify the Chief Officer of the college of the funding to be provided to the college for the financial year.

(2) The Chief Officer 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, 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 expected income of the college for the financial year.

(3) An tÚdarás shall, having regard to the statement submitted under subsection (2), allocate the amount of money to the college for the financial year, 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.”

Explanatory Note

Head 71 provides that the budgetary responsibility arrangements provide for the Chief Officer to prepare the budget of the institution which the Governing body approves and then recommends to HEA. This is consistent with the Chief Officer’s legal position as the Accounting Officer responsible for the institution’s finances and mirrors best practice in the private sector. Subsection (1) is to provide that an tÚdarás advised the Chief Officer of the funding for the financial year. Subsection (2) provides that the Chief Office will prepare a budget for the institute of technology and will submit this to the governing body who will give or withhold their approval. The governing body is to have responsibility to recommend the approved budget to an tÚdarás.”
Head 72Further Amendment of Section 13 of the Institutes of Technology Acts 1992 – 2006

Provides that

Borrowing

Section 13 (8) and (9) of the RTC Act 1992, as amended by the IOT Act 2006 is deleted and substituted by the following -

“(8) A college, or any subsidiary of that college, or any company in which it has a propriety 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.

(9) Borrowing, guaranteeing and underwriting under subsection (8) shall be in accordance with arrangements entered into from time to time between the colleges and An tÚdarás; An tÚdarás shall consult with the Minister and the Minister for Public Expenditure and Reform before entering into such arrangements.”

Explanatory Note

Head 72 provides that Section 13 (8) and (9) of the Institutes of Technology Acts, provide for an institute to borrow money, and may guarantee or underwrite a loan taken or borrowing undertaken by a person or body of persons. However, this must be in accordance with arrangements entered into with an tÚdarás. The HEA must first consult with the Minister and with the Minister for Public Expenditure and Reform. Section 13 (8) and the restriction in 13 (9) does not extend to any subsidiary of an institute of technology. This means that under the current legislation, a subsidiary of an institute can borrow money with no restriction.
Head 73 Delete Section 11A (1) (b) and (c) of the RTC Act 1992 relating to provisions for recruitment of staff

Provides that

Section 11A (1) (b) and (c) of the RTC Act 1992 (as amended by S13 of IoT Act 2006) is hereby deleted.

The following new section 11A (1) (b) will be inserted -

“11A (1) (b) The recruitment policy for staff must comply with employment policies that may be determined by the Minister for Public Expenditure and Reform from time to time. “

Explanatory Note
Head 73 provides that the recruitment procedures in the Institutes of Technology, made by order by the Minister following the 1992 Act, are no longer fit for purpose and more flexibility is required by the Institutes in the appointment of staff. The universities are not subject to any similar restrictions around recruitment procedures and the repeal of these provisions will give Institutes and the proposed technological universities similar autonomy. There will be a proviso that the recruitment procedures and practices must comply with relevant Government policy in this area (e.g recruitment from redeployment panels and other requirements arising from public service agreements).
Head 74 – Dismissal arrangements for staff appointed before 1992

Provides that

Section 12 of the RTC Act 1992 (as amended by Section 14 of IoT Act 2006) is amended by deleting subsection (3) and subsection (4).

*Explanatory Note*

Head 74 provides for the repeal of section 12 of the RTC Act 1992 (as amended by S14 of IoT 2006 Act) will give the power to the Institutes of technology to remove an employee from office. These sections protected staff who were employed when the RTCs were created in 1992 from being removed from office without the consent of the Minister and applies only to those employed in the college before the commencement of the 1992 Act. The Education and Training Act 2013 removed this protection for VEC employees, all of whom can now be removed from office by the ETB.
Head 75 Amendment to Section 20 of the RTC Act 1992 on Inspections

Provides that

Section 20 of the RTC Act 1992 is deleted and replaced by -

“20. (1) An tÚdarás, following consultation with the Minister, may authorise any person or persons as an tÚdarás may deem appropriate to report to it on any matters regarding the operation of an institute of technology and such person or persons shall be entitled at all reasonable times to enter the college concerned and shall be afforded every facility by that college, including access to all records, to perform their functions.”

Explanatory Note

Head 75 provides for the amendment to Section 20 of the Institute of Technology Acts (1992-2006) provides the power to an tÚdarás, following consultation with the Minister to appoint an Inspector, rather than the power lying with the Minister, following consultation with an tÚdarás. The amendment will help underpin the new strengthened regulatory role for an tÚdarás. The power to appoint a Commission will remain with the Minister, following advice from an tÚdarás after their consideration of an inspectors report.
Head 76 Amendment to Section 2 (1) of the RTC Act 1994 relating to Appointment of Commission

Provides that

Section 2 (1) of the RTC Act 1994 is deleted and replaced by -

“2. (1) Where an tÚdarás, following consultation with the Minister, is satisfied, after considering the report of a person appointed under section 20 of the Principal Act, that the affairs of a college are not being managed in an effective manner, an tÚdarás may advise the Minister to appoint a person or a body of persons, hereinafter referred to as the Commission, to carry out such and so many of the functions of any or all of the governing body, the chairman or the Director or of any of them as an tÚdarás may determine and upon such appointment that body or person shall cease to exercise the functions thereby vested in the Commission.”

Explanatory Note

Head 76 provides for the amendment to Section 20 of the Institute of Technology Acts (1992-2006) provides the power to an tÚdarás, following consultation with the Minister to appoint an Inspector, rather than the power lying with the Minister, following consultation with an tÚdarás. The power to appoint a Commission will remain with the Minister, following advice from an tÚdarás after their consideration of an inspectors report.
Amendment of Section 14 of the Dublin Institutes of Technology Acts 1992 – 2006

Provides that

Section 14 of the DIT Act 1992, (as amended by Section 41 of the IOT Act 2006) is amended by deleting subsection (1) and (2) and substituting the following -

“14. (1) An tÚdarás shall, from moneys provided to An tÚdarás pursuant to section 12 of the Higher Education Authority Act 1971, notify the Chief Officer of the DIT of the funding to be provided to the college for the financial year.

(2) The Chief Officer 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, 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 expected income of the college for the financial year.

(3) An tÚdarás shall, having regard to the statement submitted under subsection (2), determine the amount of money to be allocated to the college for the financial year, 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.”

Explanatory Note

Head 77 provides for the budgetary responsibility arrangements provide for the Chief Officer to prepare the budget of the institution which the Governing body approves and then recommends to HEA. This is consistent with the Chief Officer’s legal position as the Accounting Officer responsible for the institution’s finances and mirrors best practice in the private sector. Subsection (1) is to provide that an tÚdarás advised the Chief Officer of the funding for the financial year. Subsection (2) provides that the Chief Office will prepare a budget for the institute of technology and will submit this to the governing body who will give or withhold their approval. The governing body is to have responsibility to recommend the approved budget to an tÚdarás.”
Head 78 Further Amendment of Section 14 of the DIT Acts 1992 – 2006

Provides that

Borrowing

Section 14 (8) and (9) of the DIT Act 1992, as amended by Section 41 of the IoT Act 2006 is repealed and replaced by -

“(8) A college, or any subsidiary of that college, or any company in which it has a propriety 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.

(9) Borrowing, guaranteeing and underwriting under subsection (8) shall be in accordance with arrangements entered into from time to time between the colleges and An tÚdarás. An tÚdarás shall consult with the Minister and the Minister for Public Expenditure and Reform before entering into such arrangements.”

Explanatory Note

Head 78 provides for Section 13 (8) and (9) of the Dublin Institute of Technology Acts, provide for an institute to borrow money, and may guarantee or underwrite a loan taken or borrowing undertaken by a person or body of persons. However, this must be in accordance with arrangements entered into with an tÚdarás. The HEA must first consult with the Minister and with the Minister for Public Expenditure and Reform. Section 13 (8) and the restriction in 13 (9) does not extend to any subsidiary of an institute of technology. This means that under the current legislation, a subsidiary of an institute can borrow money with no restriction.
Head 79  Term of office of President of DIT

Provides that

The Dublin Institute of Technology Acts 1992 to 2006 are amended by substituting the following paragraph for paragraph 7 of the Third Schedule:

“Unless he or she resigns, retires or is removed from office, the President 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 President’s appointment.”

Explanatory Note
Head 79 - the Dublin Institute of Technology Act 1992 requires the term of office of the President of the Institute to be set at 10 years, unless s/he retires, resigns or is removed from office.

The purpose of the proposed amendment is to remove the mandatory requirement for the President to be appointed to a term of office for 10 years. There will be no impact on the term of office of the current President of DIT.

The change is to facilitate the Governing Body, should they consider it appropriate, offering a contract with a shorter term of office than 10 years for any future appointment to the post of President.
Head 80 Delete S 12A (1) (b) and (c) of the DIT Act 1992 relating to provisions on staff recruitment

Provides that

(1) Section 12A (1) (b) and (c) of the DIT Act 1992 (as amended by Section 39 of IoT Act 2006) is deleted.

(2) The following new section 12A (1) (b) will be inserted -

“12A (1) (b) The recruitment policy for staff must comply with employment policies that may be determined by the Minister for Public Expenditure and Reform from time to time.”

Explanatory Note

Head 80 provides for the recruitment procedures in the Institutes of Technology to be made by order by the Minister following the 1992 Act. This is no longer fit for purpose and more flexibility is required by the Institutes in the appointment of staff. The universities are not subject to any similar restrictions around recruitment procedures and the repeal of these provisions will give Institutes and the proposed technological universities similar autonomy.

There will be a proviso that the recruitment procedures and practices must comply with relevant Government policy in this area (e.g recruitment from redeployment panels and other requirements arising from public service agreements).
Head 81  Repeal arrangements for staff appointed before 1992

Provides that

Section 13 of the DIT Act 1992 (as amended by Section 40 of IoT Act 2006) is amended by deleting subsection (3) and subsection (4).

Explanatory Note

Head 81 provides for the repeal of section 13 of the RTC Act 1992 (as amended by Section 40 of IoT 2006 Act) will give the power to the Institutes of technology to remove an employee from office. These sections protected staff who were employed when the DIT was created in 1992 from being removed from office without the consent of the Minister and applies only to those employed in the college before the commencement of the 1992 Act. The Education and Training Act 2013 removed this protection for VEC employees, all of whom can now be removed from office by the ETB.
Head 82 Amendment to Section 21 of the DIT Act 1992 on Inspections

Provides that

Section 21 of the DIT Act 1992 is deleted and replaced by -

“21. (1) An tÚdarás, following consultation with the Minister, may authorise any person or persons as an tÚdarás may deem appropriate to report to it on any matters regarding the operation of an institute of technology and such person or persons shall be entitled at all reasonable times to enter the college concerned and shall be afforded every facility by that college, including access to all records, to perform their functions.”

Explanatory Note

Head 82 provides for the amendment to Section 20 of the Dublin Institute of Technology Acts (1992-2006) provides the power to an tÚdarás, following consultation with the Minister to appoint an Inspector, rather than the power lying with the Minister, following consultation with an tÚdarás. The amendment will help underpin the new strengthened regulatory role for an tÚdarás. The power to appoint a Commission will remain with the Minister, following advice from an tÚdarás after their consideration of an inspectors report.
Head 83  
Amendment to Section 2 (1) of the DIT Act 1994 relating
to Appointment of Commission

Provides that

Section 2 (1) of the DIT Act 1994 is deleted and replaced by -

“2. (1) Where an tÚdarás, following consultation with the Minister, is satisfied, after considering the report of a person appointed under section 21 of the Principal Act, that the affairs of a college are not being managed in an effective manner, an tÚdarás may advise the Minister to appoint a person or a body of persons, hereinafter referred to as the Commission, to carry out such and so many of the functions of any or all of the governing body, the chairman or the Director or of any of them as an tÚdarás may determine and upon such appointment that body or person shall cease to exercise the functions thereby vested in the Commission.”

Explanatory Note

Head 83 provides for the amendment to Section 2 of the Dublin Institute of Technology Act 1994 provides the power to an tÚdarás, following consultation with the Minister to appoint an Inspector, rather than the power lying with the Minister, following consultation with an tÚdarás. The power to appoint a Commission will remain with the Minister, following advice from an tÚdarás after their consideration of an inspectors report.
Head 84 Amendment of the Qualifications and Quality Assurance (Education and Training) Act, 2012

Provides that

Section 2(1) of the Qualifications and Quality Assurance (Education and Training) Act, 2012 is amended by –

(1) replacing the definition of “designated awarding body” with the following –

‘ “designated awarding body” means a previously established university, the National University of Ireland, an educational institution established as a university under section 9 of the Act of 1997, a technological university established under Part III of the Technological University Act, 2014, the Dublin Institute of Technology and the Royal College of Surgeons in Ireland’, and

(2) in the definition of “relevant provider” inserting, between “(b) an educational institution established as a university under section 9 of the Act of 1997” and “(c) the Royal College of Surgeons in Ireland”, “(bb) a technological university established under Part III of the Technological University Act, 2014”.

Explanatory Note

Head 84 provides that any technological university established under this Act is both a “designated awarding body” and a “relevant provider” for the purposes of the Qualifications and Quality Assurance (Education and Training) Act, 2012.
Head 85  Amendment of the Higher Education Authority Act 1971

Provides that

Section 1 (1) of the Higher Education Authority Act 1971 is amended by-

(1) Replacing the definition of an “institution of higher education” with the following-

“institution of higher education” means—

(a) a university,

(b) a college of a university,

(c) a technological university established under Part III of the Technological University Act, 2014, or

(d) an institution which the Minister, after consultation with An tÚdarás, designates by regulations as an institution of higher education for the purposes of this Act;

Explanatory Note

The Higher Education Authority Act 1972 is amended to include a technological university in the definition of an institution of higher education.
Amendment to the Education and Training Boards Act 2013

Provides that –

Section 69 of the Education and Training Boards Act 2013 is repealed.

Explanatory Note
The ETB Act 2013 repealed certain sections of 1930 and 1944 VEC Acts, relating to staff terms and conditions. However, section 69 of the ETB Act stated that these terms and conditions shall continue to apply as if they had not been repealed for the purposes of section 12 (amended by section 14 of the Institutes of Technology Act 2006) of the Regional Technical Colleges Act 1992, and section 13 (amended by section 40 of the Institutes of Technology Act 2006) of the Dublin Institute of Technology Act 1992. These provisions are being repealed by Heads 74 and 81 of this Act and the provision in the ETB Act is therefore repealed.
Amendment to Section 7 of the Student Support Act 2011

Provides that

Section 7 (1) of the Student Support Act 2011 is deleted and replaced by

“7.— (1) In this Act, “approved institution” means—

(a) an educational institution to which, pursuant to section 4 of the Universities Act 1997, that Act applies,

(b) an educational institution established under section 3 of the Regional Technical Colleges Act 1992 as a regional technical college to which the Institutes of Technology Acts 1992 to 2006 apply,

(c) a technological university established under Part III of the Technological University Act 2014,

(d) the Dublin Institute of Technology,

(e) an educational institution in the State that receives a grant out of moneys provided by the Oireachtas, pursuant to a scheme administered by the Minister, for the provision of courses of education and training known for the time being as post-leaving certificate courses,

(f) an educational institution that provides higher education and training which is situated in a Member State other than the State which is maintained or assisted by recurrent grants from public funds of that or any other Member State including the State, or

(g) an educational institution in the State that provides higher education and training and which stands prescribed for the time being pursuant to subsection (2).”

(2) On the establishment day to be appointed under Head 30 (1), and where the merged institute concerned is the Dublin Institute of Technology, section 7 (1)(c) is deleted.
Head 88 Amendment to section 30 of the Student Support Act 2011

Provides that

Section 30 (1) of the Student Support Act 2011 is deleted and replaced by

“30.—(1) This section applies to approved institutions operating in the State other than—

(a) those to which, pursuant to section 4 of the Universities Act 1997, that Act applies,

(b) the Dublin Institute of Technology,

(c) those to which, pursuant to section 3(1) (as amended by the Institutes of Technology Act 2006) of the Regional Technical Colleges Act 1992, that Act applies,

(d) a technological university established under Part III of the Technological University Act 2014.”

(2) On an establishment day appointed under Head 30 (1), and where the merged institute concerned is the Dublin Institute of Technology, section 30(1)(b) is repealed
FIRST SCHEDULE

Governing Body


(2) The seal of the Governing Body 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 Institute 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 Institute 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 chief officer, holds 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) A member of the Governing Body, other than the chief officer, shall be paid by the Governing Body such allowances or expenses as the Minister determines, with the approval of the Minister for Public Expenditure and Reform.

3. (1) A member of the Governing Body, other than the chief officer, may resign from office by giving the appropriate notice to the Governing Body.

(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 the Governing Body 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,
(e) is convicted of an offence involving fraud or dishonesty,
(f) is the subject of an order under section 160 of the Companies Act 1990.

4. (1) If a member of the Governing Body, other than the chief officer and chairperson, dies, resigns, ceases to be qualified for or ceases to hold office or is removed from office for any reason, the Governing Body may appoint a person to be a member of the Governing Body to fill the casual vacancy so occasioned, from the same constituency from which the member was appointed.

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

(a) holds 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

(b) is 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 any 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 which constitute a quorum.
(3) The quorum for a meeting of the Governing Body shall be set by the Governing Body at its first meeting.

(4) At a meeting of the Governing Body it shall appoint from amongst its members a member (other than the chief officer) to be its deputy-chairperson. 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) 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 shall have a second or casting vote.

(6) Subject to subparagraph (3), the Governing Body may act notwithstanding one or more vacancies among its members.

(7) 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”).

(8) A member of the Governing Body who participates in an electronic meeting is taken for all purposes to have been present at the meeting.

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

6. (1) The Governing Body may establish committees, consisting wholly or partly of persons who are either members of, or members of the staff of, the Governing Body, to assist and advise it in relation to the performance of any or all 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 desirability of there being an appropriate balance between men and women on the committee.

(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) A committee established under this paragraph may regulate, by standing orders or otherwise, its procedure and business.

(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 Authority 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 representative in 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, a member of a committee.
established under paragraph 7 or a member of the staff of the Governing Body.

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) Any 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, then 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. Subparagraphs (1) to (5) of paragraph 6 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,

(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, 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) proposals of a commercial nature or tenders submitted to the Governing Body by contractors, consultants or any other person.

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

12. Subject to this Act, the governing body of a technological university may make, from time to time, such regulations as it thinks fit for the conduct of the affairs of the institution.”
SECOND SCHEDULE

Chief Officer

1. The chief officer of a technological university shall, subject to this Act, manage and direct the institution in 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 chief officer 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 technological university and for the due performance of his or her functions.

3. (1) A chief officer may delegate any of his or her functions to an employee of the institution, unless they are so delegated to the chief officer subject to the condition that they shall not be sub-delegated, and the employee shall be answerable to the chief officer for the performance of those functions.
   (2) Notwithstanding any such delegation, the chief officer shall at all times remain answerable to the governing body in respect of the functions so delegated.

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

5. A chief officer shall be entitled to be a member of and preside over any and every committee appointed by the governing body.

6. Unless he or she otherwise resigns, retires or is removed from office, a chief officer shall hold office for a period of up to a maximum of 10 years.

7. A chief officer 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 university is required by this Act to prepare,
(b) the economy and efficiency of the technological university in the use of its resources,

c) the systems, procedures and practices employed by the technological university for the purpose of evaluating the effectiveness of its operations, and

d) any matter affecting the university 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.

8. A chief officer, if required under paragraph 7 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.

9. From time to time and whenever so requested, a chief officer shall account for the performance of the technological university’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.”