

**General Scheme**  
**of a**  
**Qualifications and Quality Assurance (Amendment) Bill**

## ARRANGEMENT OF HEADS

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#### *Preliminary and General*

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***Part 1***

***Preliminary and General***

**Head 1      Short Title and Commencement**

Provides that –

“(1) This Act may be cited as the Qualifications and Quality Assurance (Amendment) Act 2017

(2) This Act shall come into operation on such day or days as may be fixed by order or orders made by the Minister, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different purposes or different provisions”

***Explanatory Notes***

*Head 1 sets out the title of the proposed Act and makes provision for commencement.*

## ***Part 2***

### ***Amendment of Qualifications and Quality Assurance (Education and Training) Act 2012***

#### **Head 2      Amendment of Section 2 of Principal Act (Interpretation)**

(1) Section 2 (1) of the Principal Act is amended by:

(a) the insertion of the following definitions:

“associated provider” means a provider that enters into an arrangement with a listed awarding body under which arrangement the provider provides a programme of education and training that satisfies all or part of the prerequisites for an award of the listed awarding body which is included in the Framework;

“Listed awarding body” means an awarding body, other than a designated awarding body or a provider to whom the Authority has delegated authority to make awards, that has been listed by the Authority for the purposes of having its awards included within the Framework”

“an Education and Training Board” means a body established under the Education and Training Boards Act 2013”

“an award included within the Framework” means that:<sup>1</sup>

- (a) an award has been made by the Authority in accordance with the policies and criteria established under section 50 (1);
- (b) an award has been made under delegated authority by a provider to whom, under section 53, authority to make an award has been delegated;
- (c) an award has been made consistently with the policies and criteria determined by the Authority under section 43 and section 55 (a) (1) (i) by a listed awarding body;
- (d) an award has been made by a designated awarding body consistent with the policies and criteria determined by the Authority under section 43; or
- (e) an award has been made under the Education Act 1998, at the request of the Minister and consistent with Section 43”

“relevant provider” means:

- (i) an institute of technology
- (ii) an education and training board”
- (iii) a listed awarding body providing programmes leading to its own awards which are included in the Framework

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<sup>1</sup> The phrase ‘recognised within the framework’ will have to change throughout the 2012 Act as a consequence of this definition.

“scope of provision” means the mutually agreed boundaries approved by the Authority for:

- (i) the education, training, research and related services that a provider provides;
- (ii) the countries and other contexts in which it provides them; and
- (iii) the classes of programmes involved”

“Learner Protection fund” means the Protection of Enrolled Learners Fund

(b) the deletion of the definition of “designated awarding body” and replacing with: “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, an institute of technology, the Dublin Institute of Technology and the Royal College of Surgeons in Ireland.”

(c) the deletion of the definition of “programme of education and training” and replacing with: “programme of education and training” means a process by which a learner acquires knowledge, skill or competence and includes a course of study, a course of instruction and an apprenticeship, the parameters for the characterisation of that process are determined by the validation policy and criteria established under section 44 (1).”

(2) Section 2 (2) of the Principal Act is amended the deletion of the text of section 2 (2) and replacing with:

“2 (2) For the purposes of this Act, a programme of education and training is validated where the Authority confirms under section 45 that the provider of the programme has satisfied the Authority that, for an interval of time specified by the Authority, during which new learners may be enrolled on that programme:

- (i) An enrolled learner of that provider who completes that programme will acquire, and where appropriate, be able to demonstrate, the necessary knowledge, skill or competence to justify an award of the Authority being offered in respect of that programme;
- (ii) The quality assurance procedures established under Section 28 are consistent with the guidelines issued by the Authority under Section 27(1) and suitable for quality assuring the programme; and
- (iii) the provider of the programme has the capacity and capability to provide that programme”

***Explanatory note***

*Head 2 defines the key terms used in the General Scheme. Many of the definitions are taken from the Principal Act with necessary amendments.*

### **Head 3      Amendment of Section 9 of Principal Act (Functions of Authority)**

(1) Section 9 (1) of the Principal Act is amended:

(a) by deleting the text in 9 (1) (c) and replacing with “approve, monitor and review the effectiveness of a provider’s quality assurance procedures and revised quality assurance procedures”

(b) by the insertion of the following paragraphs after paragraph 9 (1) (p):

“9 (1) (q) share, as it considers appropriate, any information collected through the performance of its functions with Government Departments, the Office of the Revenue Commissioners, An t-Udarás um Ard-Oideachas, An tSeirbhís Oideachas Leanúnaigh agus Scileanna<sup>2</sup>, and any other bodies the Authority considers appropriate, having regard to national legislation”

“9 (1) (r) include awards within the Framework”

“9 (1) (s) list awarding bodies for the purposes of having awards included within the Framework”

(2) Section 9 (2) (e) of the Principal Act is amended by inserting “An tSeirbhís Oideachas Leanúnaigh agus Scileanna” in the list of bodies to be consulted

(3) Section 9 (2) of the Principal Act is amended by the insertion of the following after paragraph 9 (2) (e):

“9 (2) (f) conduct any investigations that it considers necessary and expedient for the performance of its functions”

9 (2) (g) “publish reports of its evaluations and determinations as it considers appropriate”

#### ***Explanatory note***

*Head 3 provides for amendments to the functions of Quality and Qualifications Ireland (QQI), including specific statutory functions for the inclusion of awards within the National Framework of Qualifications and the listing of awarding bodies.*

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<sup>2</sup> The references to an Foras Áiseanna Saothair (FÁS) in Sections 2(1); 44(1)(9)(b); 52(2)(b) and 65(5)(e) of the 2012 Act should now refer to An tSeirbhís Oideachas Leanúnaigh agus Scileanna (SOLAS)

**Head 4      Amendment of Section 14 of Principal Act (Directions of Authority as to provision of information)**

- (1) Section 14 of the Principal Act is amended by the insertion of the following Section after section 14:

“14A (1) The Authority may, having regard to relevant national legislation, forward to Government Departments, the Office of the Revenue Commissioners, An t-Udarás um Ard-Oideachas, An tSeirbhís Oideachas Leanúnaigh agus Scileanna, and any other bodies the Authority considers appropriate, information which comes to its attention in the course of carrying out its functions, and which falls within the administrative remit of that body”

***Explanatory note***

*Head 4 provides for a specific legislative function for QQI of sharing relevant information with other State bodies.*

## **Head 5      Amendment of Section 27 of Principal Act (Quality Assurance)**

(1) Section 27 of the Principal Act is amended:

(a) by the insertion of the following paragraph after paragraph 27 (1) (d):

“27 (1) (e) The Authority shall issue guidelines for the establishment of procedures by listed awarding bodies under section 55 A (3)”

(b) by the insertion of the following subsection after 27 (1):

“27 (2) The Authority shall issue and amend quality assurance guidelines and ‘effectiveness review procedures’ from time to time as it considers appropriate, in line with the provisions of sections 27 (2), 27 (3), 27 (4) and 27 (5)”

(c) by the insertion of the following subsection after 27 (4):

“27 (5) Where -

- (a) quality assurance guidelines and effectiveness review procedures apply to providers, and
- (b) any or all of those providers are Education and Training Boards or other bodies engaged in the provision of further education and training programmes, to whom moneys have been advanced under section 21 of the Further Education and Training Act 2013,

the Authority shall consult with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna before issuing those guidelines and establishing those review procedures”

(d) by the substitution of the following paragraph for 27 (6):

“27 (6) The Authority may –

- (a) issue different quality assurance guidelines for different relevant, linked or associated providers, or groups of relevant, linked or associated providers, and
- (b) issue different quality assurance guidelines for different classes of programmes and for different types of provision, and
- (c) establish different effectiveness review procedures for different relevant, linked or associated providers or groups of relevant providers”

### ***Explanatory note***

*Head 5 provides for the periodic review and updating by QQI of quality assurance guidelines and for the issuance of different guidelines for different types of programmes.*

**Head 6      Amendment of Section 28 of Principal Act (Obligation of providers to prepare quality assurance procedures)**

(1) Section 28 of the Principal Act is amended:

(a) by the deletion of “in writing” from paragraph 28 (1)

(b) by replacing “each relevant provider and linked provider” with “each relevant provider, linked provider and associated provider” in subsection 28 (1)

(c) by replacing “each relevant provider and linked provider” with “each relevant provider, linked provider and associated provider” in subsection 28 (2)

(d) by the insertion of the following paragraphs after paragraph 28 (1):

“28 (1) (a) The quality assurance procedures established by a relevant, linked or associated provider to satisfy the provisions of Section 44 (8) or 61 (6) shall be for the purpose of further improving and maintaining the quality of education and training which is provided, organised or procured by that provider as part of programmes leading to awards included within the Framework”

“28 (1) (b) Programmes of education to which Section 13 (3) of the *Education Act (1998)* applies shall not be subject to the procedures established under this Section”

(e) by the deletion of paragraph 28 (3) and replacing it with:

“28 (3) Procedures under *subsection (1)* shall be established as soon as practicable within a time interval specified by the Authority after the issue of guidelines by the Authority under *section 27 (1) (a)* and at such other time or times-

- (a) subject to *paragraphs (b) (c) and (d)*, where a relevant provider, linked provider or associated provider thinks appropriate
- (b) in the case of a relevant provider, where the Authority directs within a time interval specified by the Authority, or
- (c) in the case of a linked provider, where the relevant designated awarding body directs.
- (d) in the case of an associated provider, where the listed awarding body directs”

(f) by the substitution of the following paragraph for 28 (4) (b): “review by the provider of the implementation of the quality assurance procedures”

***Explanatory note***

*Head 6 contains provisions to clarify the scope of quality assurance procedures established by providers having regard to the guidelines issued by QQI. A new clause is also included to clarify that QQI's quality assurance remit does not extend to general education provision within the school sector. This role is performed primarily by the Inspectorate of the Department of Education and Skills.*

**Head 7      Amendment of Section 29 of Principal Act (Quality assurance procedures and previously established universities)**

- (1) Section 29 of the Principal Act is amended by the insertion of the following after Section 29:

**“Section 29A (Eligibility for a provider other than those listed in Section 65 (5) to be a relevant provider)**

29A (1) Providers, other than those set out under Section 65 (5), shall demonstrate to the Authority their eligibility to be relevant providers

29A (2) The Minister shall make regulations as soon as practicable specifying the criteria for eligibility that shall be fulfilled by a provider of a programme of education and training for the purposes of 29A (1)

29A (3) Without prejudice to the generality of subsection 29A (2), criteria specified in regulations made under that subsection shall include, inter alia, legal identity, business viability and corporate good-standing. Providers shall also have the capacity and capability to implement quality assurance procedures and to provide programmes of education and training consistent with the requirements of the Authority within intended scope of provision.

29A (4) Providers seeking to demonstrate their eligibility under Section 29A (1) shall pay such fee (if any) as may be determined by the Authority under Section 80

29A (5) In respect of Section 29A, a provider who knowingly makes a statement which is false or misleading in a material respect commits an offence

29A (6) Providers must notify the Authority immediately of any material changes affecting their ability to continue to meet the criteria

29A (7) The Authority may, at any time, and shall whenever scope of provision changes, require a provider to demonstrate that it continues to meet the criteria

29A (8) If, in the opinion of the Authority, a relevant provider ceases to meet the criteria for eligibility the Authority shall withdraw:

- (a) its approval of the procedures established under Section 28,
- (b) validation of any programmes of education and training of the relevant provider concerned which the Authority has validated under Section 45,
- (c) any authority to make awards delegated to the relevant provider concerned under Section 53, and

- (d) authorisation to use the international education mark where the relevant provider concerned is authorised to use the international education mark under Section 61”

***Explanatory note***

*Head 7 provides for the establishment by QQI, by way of Ministerial regulations, of procedures and criteria that should be fulfilled by independent and private education and training providers coming to QQI on a voluntary basis to develop a quality assurance relationship. The intention is that these provisions will enable QQI to examine the bona fides of a provider and also the capacity of a provider in the round to engage with quality assurance processes. The powers are extended by means of statutory instrument so as to provide for regulatory responsiveness to innovative modes of provision and forms of provider organisation.*

**Head 8      Amendment of Section 30 of Principal Act (Quality assurance procedures and relevant providers, other than previously established universities)**

(1) Section 30 of the Principal Act is amended as follows:

(a) by deleting Section 30 (1) and replacing it with:

“30 (1) Before establishing initial procedures under Section 28, a relevant provider, other than a previously established university, shall submit a draft of the proposed procedures to the Authority for approval, accompanied by such fee as may be determined by the Authority under Section 80”

(b) by inserting the following paragraph after Section 30 (1):

“30 (1) (A) Following the establishment of initial procedures, subsequent procedures established under Section 28 do not require approval under Section 30. However, the procedures may be subject to evaluation as to their suitability by the Authority following:

- (i) an application for validation under Section 44 (5),
- (ii) a review of validation under Section 46,
- (iii) a request for delegated authority under Section 54, or
- (iv) an application for authorisation to use the international education mark under section 61 (c), and
- (v) in the context of a review under Section 34”

(c) by the insertion of the following paragraph after paragraph 30 (8):

“30 (9) The Authority may impose conditions on a relevant provider whose procedures it has approved. The provider must comply with these conditions”

***Explanatory note***

*Head 8 contains provisions to allow QQI to impose conditions on an education and training provider whose quality assurance procedures it has approved. Such conditions would include a requirement for a provider to inform QQI of any changes to its engagements with third parties which might impact on the delivery of programmes leading to QQI awards. Failure to comply with such conditions may result in the withdrawal of quality assurance approval.*

**Head 9      Amendment of Section 34 of the Principal Act (Review by Authority of Quality Assurance Procedures of Relevant Providers)**

(1) Section 34 of the Principal Act is amended by the insertion of the following after 34 (4):

“34 (4) A The Authority shall consult with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna in carrying out a review under subsection (1) where -

(a) that review relates to a relevant provider, and

(b) that relevant provider is an Education and Training Board or other body engaged in the provision of further education and training programmes, to whom moneys have been advanced under section 21 of the Further Education and Training Act 2013”

***Explanatory note***

*Head 9 contains provisions to allow QQI to consult with SOLAS when conducting a review of the quality assurance procedures of further education and training providers. This parallels existing provisions for consultation with the Higher Education Authority in respect of reviews of higher education institutions and is consistent with Heads 11 and 20.*

**Head 10      Amendment of Section 36 of Principal Act (Withdrawal by Authority of approval of quality assurance procedures)**

- (1) Section 36 of the Principal Act is amended by the insertion of the following after 36 (1):

“36 (2) Where a provider has given notice in writing to the Authority that it no longer wishes to have its quality assurance procedures approved, the Authority may withdraw the approval without review, by notice in writing to the provider”

***Explanatory note***

*Head 10 provides for a withdrawal of approval by QQI of quality assurance procedures without review. This would be appropriate in ‘no-contest’ cases where a relevant provider and QQI mutually consent to that provider ceasing to be a relevant provider.*

**Head 11      Amendment of Section 42 of the Principal Act (Quality Reviews by Authority)**

- (1) Section 42 of the Principal Act is amended by the insertion of the following after 42 (2):

“42 (2) A The Authority shall consult with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna in carrying out a review under subsection (1) where —

(a) that review relates to a relevant provider, and

(b) that relevant provider is an Education and Training Board or other body engaged in the provision of further education and training programmes, to whom moneys have been advanced under section 21 of the Further Education and Training Act 2013”

***Explanatory note***

*Head 11 contains provisions to allow QQI to consult with SOLAS when conducting quality reviews of further education and training providers. This parallels existing provisions for consultation with the Higher Education Authority in respect of reviews of higher education institutions and is consistent with Heads 9 and 20.*

**Head 12      Amendment of Section 43 of Principal Act (Framework of Qualifications)**

(1) Section 43 of the Principal Act is amended as follows:

(a) by deleting Section 43 (2) (a) and replacing it with:

“43 (2) (a) further develop and review the policies and criteria on which the Framework is based,”

(b) by deleting Section 43 (2) (b) (i) and replacing it with:

“43 (2) (b) (i) “of levels of awards based on standards of knowledge, skill or competence to be acquired by a learner to entitle the learner to an award at a particular level within the Framework, and”

(c) by deleting Section 43 (2) (b) (ii) and replacing it with:

“43 (2) (b) (ii) for the development, recognition and award of qualifications in the State”

(d) by deleting Section 43 (3) and replacing it with:

“43 (3) The Authority shall, as soon as practicable after the commencement of this section, establish policies and criteria for awards to be included within the Framework and shall publish the policies and criteria in such form and manner as it thinks appropriate”

(e) by deleting Section 43 (4) and replacing it with:

“43 (4) The Authority may establish different policies and criteria for –

(a) different awards to be included within the Framework,

(b) different awarding bodies in the State”

(f) by deleting Section 43 (5) and replacing it with:

“43 (5) The Authority shall, within 5 years after the establishment for policies and criteria under *subsection (3)* and at least once in every period of 5 years thereafter, review those policies and criteria”

(g) the insertion of the following Sections after Section 43 (5):

“43 (6) Awards included in the Framework shall -

- (a) apply to versions of awards that are capable of complying with *subsection (12)*
- (b) apply to awards made to learners during the time being as specified under *section 79(2)*”

“43 (7) Awards included within the Framework shall be subject to –

- (a) the conditions specified in *subsection (8)*, and
- (b) any other conditions that the Authority thinks it appropriate to impose in relation to any such award”

“43 (8) Each designated awarding body and listed awarding body, shall, in respect of each award that the body makes that is included within the Framework:

- (a) co-operate with the Authority in the performance of the functions of the Authority in so far as those functions relate to awards included within the Framework,
- (b) consult with the Authority, as appropriate, in regard to the performance of the functions of the Authority in so far as those functions relate to awards included within the Framework,
- (c) provide to the Authority such information as the Authority may from time to time require for the performance of its functions in relation to awards included within the Framework”

“43 (9) Each designated awarding body shall ensure, in so far as is reasonably practicable, that each award that it makes is included within the Framework”

“43 (10) Each designated awarding body shall cooperate with the Authority in implementing policies and criteria established under *sub-section 3*”

“43 (11) Each listed awarding body shall, for the purpose of having awards included in the Framework, comply with *Section 55*”

“43 (12) Each designated awarding body and each listed awarding body shall, in respect of each award the body makes that is included within the Framework, ensure that a learner acquires the standard of knowledge, skill or competence associated with the level of that award within the Framework before and award is made”

“43 (13) Each provider of a programme of education and training leading to an award that is included within the Framework shall, in respect of each such programme, ensure that an enrolled learner acquires the standard of knowledge,

skill or competence associated with the level of that award within the Framework before an award is made”

“43 (14) Policies and criteria established under *subsection (3)* shall have regard to:

- (a) the need to ensure that the number of awards included within the Framework provides a reasonable level of choice for learners,
- (b) the need to ensure that the number of awards included within the Framework serving similar functions is not excessive,
- (c) the reasonable requirements of learners,
- (d) the reasonable requirements of industry, agriculture, business, tourism and trade, the professions and the public service,
- (e) the historical performance of an award in the State
- (f) advice or requests concerning the education and training needs of learners, received from bodies charged with managing publicly funded education and training provision in the State.
- (g) advice or requests concerning the education and training needs of learners, received from competent authorities for regulated professions in the State.
- (h) aspects of government policy as the Minister may direct”

“43 (15) Awards included within the Framework shall be published in accordance with *section 79*”

“43 (16) Each awarding body in the State may, in respect of each award of that body that is included within the Framework, amend information published in accordance with *section 79*”

“43 (17) Before amending information under *sub-section (16)*, an awarding body must give notice to the Authority of its intention to do so”

“43 (18) Notice given under *sub-section (17)*, must -

- (a) set out the reasons for proposing to amend or remove such information and

(b) specify the date on which any proposal to remove or amend such information will take effect and how any effects of such action are to be managed”

“43 (19) The Authority may consult with another public body, whether or not in the State, where it is appropriate to do so for the efficient and effective operation of policies and criteria established in *sub-section (3)*”

- (2) Section 43 of the Principal Act is also amended by the insertion of the following new Section after Section 43:

**“43A “Offence to provide or advertise cheating services”**

“43 A (1) A person commits an offence if the person provides any service specified in *subsection (4)* with the intention of giving an enrolled learner an unfair advantage over other similarly enrolled learners”

“43 A (2) A person commits an offence if the person advertises any services specified in *subsection (4)* knowing that the service has or would have the effect of giving an enrolled learner an unfair advantage over other similarly enrolled Learners”

“43 A (3) A person commits an offence who, without reasonable excuse, publishes an advertisement for any service specified in *subsection (4)*”

“43 A (4) The services referred to in *subsections (1) to (3)* are -

(a) completing an assignment or any other work that an enrolled learner is required to complete as part of a programme in their stead without authorisation from those making the requirement;

(b) providing or arranging the provision of an assignment that an enrolled learner is required to complete as part of a programme in their stead without authorisation from those making the requirement;

(c) providing or arranging the provision of answers for an examination that an enrolled learner is required to complete as part of a programme before they complete it and without authorisation from those setting the examination;

(d) sitting an examination that an enrolled learner is required to sit as part of a programme in their stead or providing another person to sit the exam in place of the enrolled learner, without authorisation from those setting the examination”

### ***Explanatory note***

*Head 12 provides a legal basis for the inclusion of awards made by Designated Awarding Bodies (the 7 Universities, the Dublin Institute of Technology and the Royal College of Surgeons in Ireland) in the National Framework of Qualifications. This Head contains provisions for the establishment by QQI of policies and criteria for awards to be included within the Framework. This process will entail scrutiny of awarding bodies and scrutiny of qualifications to ensure that they are fit for purpose and appropriately positioned within the Framework. This Head also provides for the establishment of different policies and criteria for different awards and different awarding bodies, and for a review of these policies and criteria at least once in every five year period.*

*Head 12 also contains provisions to provide QQI with powers to prosecute essay mills / other forms of academic cheating. These provisions are modelled on similar legislation introduced in New Zealand.*

**Head 13      Amendment of Section 44 of Principal Act (Application for validation of programme of education and training)**

(1) Section 44 of the Principal Act is amended:

(a) by the substitution of section 44 (7) (a) with the following:

“44 (7) (a) (i) the provider has established procedures for quality assurance under Section 28 and its quality assurance procedures address the programme for which validation is sought”

(b) by the insertion of the following paragraph after paragraph 44 (7) (d):

“44 (7) (e) the provider has complied with such procedures and criteria as may be prescribed under Section 29A”

(c) by the substitution of the following paragraph for 44 (9) (a): “each Institute of Technology, in respect of programmes leading to doctoral degrees in the National Framework of Qualifications”

(d) by the insertion of the following paragraph after paragraph 44 (9) (g):

“44 (9) (h) an education and training board”

***Explanatory note***

*One of the conditions before applying to QQI to have a programme validated is that a provider must have previously established procedures for quality assurance. However the quality assurance procedures established by a provider at a particular time will generally not be suitable for all conceivable programmes that the provider may seek to have validated. Head 13 contains provisions for requiring that a provider’s quality assurance procedures are fit-for-purpose in the context of the proposed programme being submitted to QQI for validation.*

**Head 14      Amendment of Section 45 of Principal Act (Determination of application for validation of programme of education and training)**

(1)      Section 45 of the Principal Act is amended by the substitution of the following paragraph for 45 (1) (a):

“45 (1) (a) subject to subsection (2), validate the relevant programme of education and training for a specified interval of time during which new learners may be enrolled on that programme where the programme satisfies the criteria established by the Authority under section 44 (1) or”

***Explanatory note***

*Head 14 provides that validation by QQI of programmes of education and training will be time-limited.*

**Head 15      Amendment of Section 47 of Principal Act (Withdrawal of programme validation)**

(1) Section 47 of the Principal Act is amended by the insertion of the following paragraph after paragraph 47 (5):

“47 (6) The Authority may, by notice in writing, withdraw validation of a programme without a review where -

- (a) a provider has given notice in writing to the Authority that it no longer wishes to provide the programme for whatever reason, or
- (b) a provider has not offered the programme for a period of at least two years, from the date of initial validation, or
- (c) a provider has had no intake onto the programme for at least two years, or
- (d) there is mutual consent between the Authority and the provider”

***Explanatory note***

*Head 15 provides for the occasions when QQI can withdraw programme validation without conducting a review.*

**Head 16      Amendment of Section 48 of Principal Act (Arrangement between providers and awarding bodies other than the Authority)**

- (1) Section 48 of the Principal Act is amended by the insertion of the following paragraph after paragraph 48 (2):

“48 (3) Arrangements to which subsection (1) applies that are in place on commencement of Section 55A shall be exempt from the requirement in subsection (1) (b) for a period of up to 5 years following commencement”

***Explanatory note***

*Head 16 provides for a transition period to allow QQI to establish and implement the new scheme for listing awarding bodies and the inclusion of their awards in the National Framework of Qualifications. The transition period will allow the Institutes of Technology and the Education and Training Boards to continue their arrangements with awarding bodies other than QQI, where the award of that body is not included in the National Framework of Qualifications, for a period of up to five years.*

## **Head 17      Amendment of Section 50 of Principal Act (Making of an award)**

(1) Section 50 of the Principal Act is amended:

(a) by the substitution of the following paragraph for 50 (3):

“The Authority shall, on application of a relevant provider, and in accordance with the procedures established under subsection (1), having regard to the procedures established by the provider under section 56 (2), make an award to a learner where the learner has, in the opinion of the provider, acquired, and where appropriate, demonstrated, the appropriate standard of knowledge, skill or competence as determined by the Authority under Section 49 (1)”

(a) by the deletion of paragraph 50 (7)

### ***Explanatory note***

*Head 17 contains provisions to clarify that learners seeking access to Recognition of Prior Learning (RPL) processes should apply in the first instance to an education and training provider rather than to QQI.*

**Head 18      Amendment of Section 52 of Principal Act (Request by provider for delegation of authority to make award)**

(1) Section 52 of the Principal Act is amended:

(a) by the substitution of the following paragraph for Section 52 (1):

“The Authority shall, as soon as practicable after the establishment day, establish and publish, in such form and manner as it thinks appropriate (including on the internet), procedures and criteria for the determination of a request under subsection (2), which criteria shall include criteria relating to the overall operation and management of the provider making the request and the suitability of the quality assurance procedures established by the provider under Section 28”

(b) by the substitution of the following paragraph for Section 52 (2) (a):

“52 (2) (a) an Institute of Technology, in respect of programmes leading to doctoral degrees in the National Framework of Qualifications”

(c) by the substitution of the following paragraph for Section 52 (3) (a):

“52 (3) (a) the provider has established procedures for quality assurance under Section 28 that address the delegated authority to be requested and the related programmes”

(d) by the addition of the following paragraph after Section 52 (11) (b):

“52 (11) (c) any other grouping considered necessary or expedient by the Authority”

***Explanatory note***

*Head 18 provides for provisions to allow QQI to examine the suitability of a provider’s quality assurance procedures in the context of determining a provider’s request for delegated authority. It also provides for QQI to define a ‘class of programmes’ for the purposes of delegating authority to enable a more focussed approach to delegating authority where it is warranted.*

**Head 19      Amendment of Section 55 of Principal Act (Withdrawal or variation by Authority of delegated authority to make award)**

- (1) Section 55 of the Principal Act is amended by the insertion of the following Sections after Section 55:

**“Section 55 (A) (Listing of awarding bodies for purposes of having awards included within the Framework)**

- (1) The Authority shall, as soon as practicable after commencement, determine policies and criteria, including eligibility criteria, for the listing of an awarding body, other than a designated awarding body or a provider to whom the Authority has delegated authority to make awards, for the purposes of having some or all of awards of the awarding body included within the Framework
- (2) Without prejudice to the generality of *subsection (1)*, the eligibility criteria may include a requirement that any application for listing shall be accompanied by the endorsement of a relevant public authority such as the Minister, any other Minister, An t-Udarás um Ard-Oideachas, An tSeirbhís Oideachas Leanúnaigh agus Scileanna, a professional recognition body or a designated awarding body.
- (3) The listed awarding body shall establish procedures for the quality assurance of its awards and the external quality assurance of assorted providers.
- (4) The Authority shall specify requirements to be imposed by an awarding body on associated providers in the State seeking access to awards of the body included within the Framework. These requirements shall include -
  - a) Arrangements for the protection for enrolled learners, and
  - b) Procedures for access, transfer and progression of learners, and
  - c) Procedures for quality assurance
  - d) Procedures which are fair and consistent for the assessment of enrolled learners to ensure the standards of knowledge, skill or competence determined by the body before awards that are included within the Framework are made, are acquired, and where appropriate, demonstrated, by enrolled learners
- (5) In making provision of the type referred to in subsection (4) (a), arrangements for the protection of enrolled learners shall include arrangements set out in Section 65 if that section would otherwise not apply

- (6) In establishing the procedures for access, transfer and progression referred to in subsection (4) (b), associated providers shall have regard to the policies and criteria established by the Authority under Section 56 if that section would otherwise not apply
- (7) In establishing procedures for quality assurance referred to in subsection (4) (c), associated providers shall have regard to guidelines issued by the Authority under subsection 27(1) (a) if that section would otherwise not apply
- (8) The Authority shall establish procedures for assessing whether an application from an awarding body satisfies the criteria determined in subsection (1)
- (9) An awarding body may apply to the Authority for the purposes of having some or all of its awards included within the Framework
- (10) The Authority shall determine whether an application from an awarding body satisfies the criteria established under subsection (1)
- (11) Inclusion within the Framework of the awards of a listed awarding body shall be subject to policies and criteria as reviewed by the Authority under Section 43 (2) (b)
- (12) Where the Authority refuses to list an awarding body submitted under subsection (9) the awarding body concerned may appeal against that refusal to the Appeals Panel
- (13) An application under *subsection (9)* shall be accompanied by such fee (if any) as may be determined by the Authority under *section 80*
- (14) A listed awarding body shall -
  - a) co-operate with the Authority in the performance of the Authority's functions in so far as those functions relate to the inclusion of awards within the Framework, and
  - b) monitor associated providers' compliance with the requirements imposed under *subsection (4)*, and
  - c) review from time to time, and not less than once every 5 years, or at any time upon the request of the Authority, the compliance of an associated provider with the requirements imposed under *subsection (4)*
  - d) withdraw access to awards of the body for associated providers failing to comply with the requirements imposed under *subsection (4)*,
  - e) provide to the Authority such information as the Authority may from time to time require for purposes of the performance of its functions

in relation to awards included within the Framework. Such information shall include -

- i) details of associated providers offering programmes leading to awards of the body included within the Framework, and
  - ii) programmes validated or otherwise listed in the Framework leading to awards of the body included within the Framework, and
  - iii) reports of reviews carried out by the awarding body on provision leading to awards included within the Framework, and
  - iv) numbers of awards made that are included within the Framework
- f) comply with any other condition that the Authority specifies by notice in writing to the awarding body concerned

(15) An awarding body that falsely claims or represents that the Authority has listed it for the purpose of inclusion of its awards within the Framework commits an offence

#### **Section 55 (B) (Review of listed awarding bodies)**

(1) The Authority shall review the operation and management of each listed awarding body in so far as it relates to awards included within the Framework, and the body's implementation of the procedures established under 55A(3), including the body's monitoring and review of associated providers offering programmes leading to such awards -

- (a) at least once every 7 years, and
- (b) from time to time as the Authority thinks appropriate

(2) The Authority shall establish and publish in such form and manner as it thinks appropriate (including on the internet), procedures and criteria for conducting reviews under subsection (1)

(3) A review under subsection (1) shall be accompanied by such fee (if any) as may be determined by the Authority under section 80

(4) In carrying out a review under subsection (1), the Authority may have regard to any other review carried out under this Act

(5) The Authority shall prepare a report setting out the results of a review under subsection (1)

(6) The Authority shall provide a copy of the report to the awarding body concerned and the awarding body may, within one month from the provision of the report to it, submit in writing any observations it has on the report to the Authority

(7) After consideration of any observations submitted to the Authority under subsection (5), the Authority may make any amendments to the report that the Authority considers appropriate

(8) The Authority shall provide a copy of the final report to the awarding body and shall publish the report in such form and manner as it thinks appropriate (including on the internet)

(9) Where, following a review under this Section, the Authority takes action under Section 55C, then subsections (6), (7) and (8) of this Section shall not apply

### **Section 55 (C) (Withdrawal or variation of listing of awarding bodies)**

(1) Upon a review under section 55B, where the Authority considers that -

- a) The criteria for listing under section 55A(1) are no longer satisfied, or
  - b) The awarding body has failed to comply with conditions referred to in section 55A (12), or
  - c) There are other reasonable grounds for withdrawing or varying the listing,
- the Authority shall, by notice in writing, inform the awarding body concerned that it proposes to withdraw or vary the listing, and state the reasons for the withdrawal or variation accompanied by a copy of the report prepared under section 55B (4)

(2) A notice under subsection (1) shall state that the awarding body may submit observations in writing to the Authority in relation to the proposed withdrawal or variation of listing set out in the notice, or in relation to the accompanying report, not later than 3 months after the service of that notice on that awarding body

(3) Where, after consideration of any observations submitted to the Authority under subsection (2) the Authority continues to consider that paragraph (a), (b), or (c) of subsection (1) applies, it shall withdraw or vary the listing, by notice in writing to that awarding body, from such date (not earlier than the date of service of the notice of withdrawal or variation) as it considers appropriate and is specified in the notice

(4) A notice under subsection (3) shall state the reasons for the withdrawal or variation of listing referred to in that subsection.

(5) After consideration of the observations of the awarding body, the Authority may make any amendments to the report prepared under subsection 55B (4) that the Authority considers appropriate to produce a final report

- (6) The Authority shall provide a copy of the final report to the awarding body and shall publish the report in such form and manner as it thinks appropriate (including on the internet)
- (7) Where the Authority withdraws or varies the listing under this section the awarding body concerned may appeal against that withdrawal or variation to the Appeals Panel
- (8) In this section, reference to varying listing of an awarding body refers to varying the conditions imposed under Section 55 (A) (14)

### **Section 55D A Listed Awarding Body that is also a provider**

- (1) Where a body that has been listed to have its awards included in the Framework is also a provider of education and training in its own right it shall be treated as if it were a relevant provider. *Sections 28, 30, 31, 34, 35, 36, 56, 57, 58, 59, 60, 61, 62, 64, 65, 66 and 67* shall apply as if the body were a relevant provider
- (2) Where an awarding body has been established under foreign law, and is subject to regulation or quality assurance by an agency from outside the State, QQI may cooperate with that agency for the purpose of conducting relevant reviews under Section 55 (C) (1)”

#### ***Explanatory note***

*Head 19 contains provisions to authorise QQI to list awarding bodies and to include their qualifications in the National Framework of Qualifications. It establishes that providers associated with listed awarding bodies shall establish and implement quality assurance procedures and other provisions similar other providers with programmes leading to NFQ awards. It also contains provisions for the establishment by QQI of procedures and criteria for the inclusion of awards of listed bodies in the Framework.*

**Head 20      Amendment of Section 57 of the Principal Act (Review by Authority of implementation of procedures for access, transfer and progression)**

- (1) Section 57 of the Principal Act is amended by the insertion of the following after 57 (3):

“57 (3) A The Authority shall consult with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna in carrying out a review under subsection (1) where -

(a) that review relates to a relevant provider, and

(b) that relevant provider is an Education and Training Board or other body engaged in the provision of further education and training programmes, to whom moneys have been advanced under section 21 of the Further Education and Training Act 2013”

***Explanatory note***

*Head 20 contains provisions to allow QQI to consult with SOLAS when conducting reviews of the procedures for access, transfer and progression in respect of further education and training providers. This parallels existing provisions for consultation with the Higher Education Authority in respect of reviews of higher education institutions and is consistent with Heads 9 and 11.*

**Head 21      Amendment of Section 60 of Principal Act (Code of Practice for provision of programme to international learners)**

(1) Section 60 of the Principal Act is amended by the substitution of the following paragraph for 60 (1): “The Authority shall, as soon as practicable after the establishment day, establish and publish a code of practice to be complied with by providers of programmes of education and training to international learners in the State enrolled on programmes leading to awards included in the framework made by:

- a) the Authority,
- b) a provider to whom the authority to make an award has been, delegated under *Section 53*
- c) a designated awarding body, or
- d) bodies listed under *Section 55a* for the purposed of having their awards recognised in the framework

and to learners outside the State enrolled on programmes leading to awards included in the framework made by:

- a) the Authority,
- b) a provider to whom the authority to make an award has been, delegated under section 53
- c) a designated awarding body,

for the purposes of obtaining authorisation from the Authority to use the international education mark under *Section 61*”

(3) Section 60 of the Principal Act is amended by the insertion of the following Section after Section 60 (1):

“Section 60 (1) (A)

The Authority may –

- (a) issue different codes for different relevant, linked or associated providers or groups of relevant, linked or associated providers, and
- (b) issue different codes for different classes of programmes and for different types of provision, and

(4) Section 60 (2) of the Principal Act is amended by the substitution of the following paragraph for 60 (2):

“Before establishing a code of practice under *subsection (1)*, the Authority shall consult with An tÚdarás um Ard-Oideachas and such providers and other bodies as the Authority considers appropriate”

***Explanatory note***

*The International Education Mark (IEM) Code of Practice currently covers international learners in the State. Head 21 provides for an extension of the remit of the Code of Practice to include learners outside the State who receive education and training provision leading to Irish awards. This is consistent with international best practice. Head 21 also removes the requirement for QQI to consult with Fáilte Ireland on the Code of Practice. When QQI was established in 2012 Fáilte Ireland had responsibility for marketing Ireland’s English language education sector to non-EU markets. Since 2016, Enterprise Ireland has assumed this responsibility.*

**Head 22      Amendment of Section 61 of Principal Act (International Education Mark)**

(1) Section 61 of the Principal Act is amended:

(a) by the insertion of the following paragraph after paragraph 61 (1):

“61 (1) (a) The Authority may specify variant forms of the international education mark for different groups of providers or classes of programmes, including an international education mark for English language education and training”

(b) by the substitution of the following paragraph for Section 61 (3):

“Subject to subsection 61 (5), a provider may apply to the Authority for authorisation to use the international education mark:

- (a) where all programmes offered by the provider lead to an award included in the Framework
- (b) in respect of each programme offered by the provider which leads to an award included in the Framework, or
- (c) in respect of English language programmes”

(c) by the substitution of the following paragraph for Section 61 (5):

“A provider shall not make an application under subsection 61 (3) unless –

- (a) the provider has established procedures for quality assurance under section 28 that address the requirements for authorisation to use the international education mark
- (b) the provider has established procedures for access, transfer and progression under section 56
- (c) the provider has complied with such regulations, procedures and criteria as may be prescribed under Section 29A
- (d) the provider has established arrangements for the protection of enrolled learners under section 65”

(d) by the substitution of the following paragraph for paragraph 61 (6) (a):

“61 (6) (a) for the purposes of complying with subsection 61(5)(a), establish procedures for quality assurance under section 28 as if the provider was a relevant provider and sections 30, 31, 34, 35 and 36 shall apply to such a provider as if that provider was a relevant provider, and”

(e) by the substitution of the following paragraph for paragraph 61 (6) (b):

“for the purposes of complying with subsection 61(5)(b), establish procedures for access, transfer and progression under section 56 and these shall apply as if that provider was a relevant provider”

(f) by the deletion of section 61 (7) and replacing it with the following:

“61 (7) The Authority shall determine an application under subsection 61(3) by assessing the compliance of the provider with the code of practice, and in the case of a provider other than a previously established university or a linked provider, by assessing the suitability of its quality assurance procedures in this context, and following upon such assessments the Authority shall:

(a) subject to subsection 61(8), authorise the use by that provider of the international education mark where it is satisfied that the provider is in compliance with that code and where relevant that its quality assurance procedures are suitable in this context, or

(b) refuse to authorise the use by that provider of the international education mark giving reasons for the refusal,

and shall notify the provider in writing of its decision”

***Explanatory note***

*Head 22 contains provisions to ensure that the International Education Mark will only be awarded to those education and training providers with relevant quality assurance oversight. Head 22 also provides for variants of the International Education Mark in the future.*

**Head 23      Amendment of Section 63 of Principal Act (Review by Authority of provider’s compliance with code of practice and provider’s use of international education mark)**

- (1) Section 63 of the Principal Act is amended by the insertion of the following after paragraph 63 (2):

“63 (2) (a) where a provider has given notice in writing to the Authority that it no longer wishes to have authorisation to use the international education mark the Authority may withdraw the authorisation without review, by notice in writing to the provider”

***Explanatory note***

*Head 23 provides for a withdrawal by QQI of authorisation to use the International Education Mark without a review in cases where an education and training provider has notified QQI that it no longer wishes to be authorised to use the Mark.*

**Head 24      Amendment of Section 65 of Principal Act (Arrangements by providers for protection of enrolled learners)**

(1) Section 65 of the Principal Act is amended as follows:

(a) by deleting the sub-heading and replacing it with “**Arrangements for the protection of enrolled learners**”

(b) by deleting the paragraphs at Section 65 (1) - 65 (5) and replacing them with the following:

“65 (1) (a) A provider, or linked provider that offers a programme of education and training leading to an award which is included within the Framework, and accepts monies from or on behalf of learners in respect of that programme, shall on an annual basis be liable to pay a charge to the Protection of Enrolled Learners Sinking Fund, (in this act referred to as the “Learner Protection Fund”) in accordance with subsection 6, for the protection of those learners where -

(i) that programme is for any reason not provided by the provider, including by reason of insolvency or winding up of that provider, or

(ii) they have begun but not completed the programme and the provider ceases to provide the programme for any reason, including by reason of the insolvency or winding up of that provider, before those learners have had reasonable opportunity to complete that programme

(b) the annual charge specified in paragraph 66 (B) (1) shall be paid in advance of the start of the year and prior to accepting any payments by or on behalf of any learners for enrolment during that year or any part of it

(c) The Authority may require a provider to provide any information that is relevant to determining the amount of the charge”

“65 (2) Without prejudice to the generality of subsection (1) a provider shall be taken to have ceased to provide a programme of education and training leading to a particular award that is included within the Framework where -

(i) the Authority withdraws validation of that programme, or

- (ii) a relevant awarding body, including awarding bodies with awards included within the Framework, no longer agrees to make that award in respect of that programme of education and training”

“65 (3) Subsection (1) shall not apply where the provider of the programme of education and training is –

- a) a previously established university,
- b) an educational institution established as a university under section 9 of the Act of 1997,
- c) the Dublin Institute of Technology,
- d) an Institute of Technology,
- e) An tSeirbhís Oideachas Leanúnaigh agus Scileanna
- f) the National Tourism Development Authority,
- g) Teagasc,
- h) An Bord Iascaigh Mhara,
- i) an education and training board or an institution established under an education and training board,
- j) a recognised school,
- k) the Royal College of Surgeons in Ireland,
- l) the Royal Irish Academy of Music,
- m) a body established by or under an Act of the Oireachtas, other than the Companies Act, or by any pre-1922 Act, or
- n) a body established by a Minister or by the Government”

“65 (4) Where a provider of a programme for which Protection of Enrolled Learners is required receives monies more than 40 days in advance of the commencement of that programme, the provider will be required to establish an escrow account with a bank or financial institution regulated by the Central Bank of Ireland that will hold the funds on behalf of the learner and the provider. In the event of the programme not being commenced, for any reason, the learner will receive a full refund of the monies paid, less any pre-agreed charges”

“65 (5) Providers shall make and maintain arrangements for the protection of enrolled learners in accordance with the 2012 Act as drafted prior to this amendment until the new scheme is established. Thereafter all providers must establish arrangements under the amended Act within 3 months or before the commencement of the next academic year if sooner”

***Explanatory note***

*Head 24 contains provisions to facilitate the introduction of a Learner Protection Fund by QQI. Provisions are included to exempt public bodies, such as the Royal College of Surgeons in Ireland, the Education and Training Boards and the Royal Irish Academy of Music, from PEL requirements and to introduce new PEL arrangements specific to*

*the Designated Awarding Bodies (the 7 Universities, the Dublin Institute of Technology and the Royal College of Surgeons in Ireland) to cover their linked providers (providers offering programmes that lead to awards from the Designated Awarding Bodies).*

**Head 25      Amendment of Section 66 of Principal Act (Assistance from Authority to enrolled learners to find alternative programme)**

(1) Section 66 of the Principal Act is amended:

(a) by deleting the sub-heading and replacing it with “**(The Protection of the Enrolled Learners Sinking Fund)**”

(b) by the insertion of the following paragraphs after Section 66:

“66 A (1) Procedures shall be prescribed by the Ministers for Education and Skills and Public Expenditure and Reform for the establishment, governance and management of the Learner Protection Fund. These procedures may be revised from time to time.

(2) The Learner Protection Fund will be used by the Authority to:

(i) fund the teaching out of the original programme of an enrolled learner where possible, or

(ii) fund the payment of fees for the transfer of an enrolled learner onto a similar programme of another provider where a provider does not provide the original programme as set out in Section 65 (1), or

(iii) in circumstances where the learner considers, with the agreement of the Authority, that it is not practicable to comply with subsection (i) or (ii), the Authority will refund to an enrolled learner, or to the person who paid the moneys on behalf of the enrolled learner, the moneys most recently paid in respect of the programme concerned and for the current academic year, to include – tuition fees, registration fees, examination fees, library fees, student services fees and any other fees paid on or on behalf of the learner to the provider (or its intermediaries) in respect of enrolment on the programme which relate to the provision of education, training and related services

(3) (a) Where a provider or linked provider to whom section 65 applies fails to or ceases to provide a programme of education and training, the Authority shall make all reasonable efforts to ensure that an alternative programme of education is made available to learners enrolled on that programme in another provider. This will ensure that the learner may have a reasonable opportunity to complete a programme of education and training similar to that commenced with the original provider

(b) The Authority may establish criteria to be applied in considering if a particular programme is a suitable alternative for the purpose of Section 66 A (2)

(i)

(4) The Minister may prescribe regulations to be applied for payments made from the Learner Protection Fund under subsection (b) (i) or (b) (ii)

(5) The Authority, on behalf of the Minister, may recover from the provider that fails or ceases to provide a programme for the purpose of this part of the Act, the amount paid to an alternative provider or a learner from the Learner Protection Fund

(6) The Authority will report annually to the Minister on the operation of the Fund and the associated protection of enrolled learners scheme, including information on placement of learners on similar programmes and refunds.”.

“66 B (1) The Minister shall prescribe the annual charge to be paid by each provider in respect of protection of enrolled learners

(2) Subject to subsection (1) the Minister may prescribe a different charge under Section 65 (1) in respect of different providers and programmes, having regard to the following matters:

- (a) the number of learners enrolled on the programme,
- (b) the number of international learners enrolled on the programme,
- (c) the duration of the programmes in respect of the learners at (a) and (b)
- (d) the level of the fees charged, and
- (e) any other matter deemed to impact on the protection of the enrolled learner, or the Learner Protection Fund

(3) The Authority, in consultation with the Minister, shall determine the process for invoicing amounts to be paid to the Learner Protection Fund by providers, pursuing unpaid amounts and setting penalties for late payment of the charge

(4) When a provider does not provide or ceases to provide the programme for any reason, as set out in Section 65 (1), the provider must notify the Authority in writing within two working days of the decision

(a) The notice to the Authority must include the following:

- i) the circumstances under which the programme is no longer being offered,
- ii) details of the learners enrolled on the programme,
- iii) details of the programme that is no longer being offered,
- iv) advice as to whether the provider intends to discharge its obligations by arranging for the learner to transfer to a similar programme at another provider at the expense of the provider, or the repayment of moneys most recently paid by, or on behalf of the learners

(b) The provider must also notify, in writing, the enrolled learners

(c) A notice given under subsection (a) or (b) must comply with any regulation made under subsection (d),

(d) The Minister may prescribe requirements for a notice given under this section

(5) (a) If a provider of a similar alternative programme referred to in Section 66A

(2) (i) offers a learner a place on a programme, the learner may accept the offer

(b) Such an acceptance must be in writing and within a period of 30 days, after which time the offer lapses

(c) If the Authority determines that exceptional circumstances apply, any shorter or longer period determined by the Authority and agreed by the learner and provider may apply”

***Explanatory note***

*Head 25 contains provisions for the establishment, governance and operation of the Learner Protection Fund.*

## **Head 26      Amendment of Section 79 of Principal Act (Database)**

- (1) Section 79 of the Principal Act is amended by substituting the following paragraph for paragraph 79 (1) (b): “79 (1) (b) programmes of education and training which lead to awards listed in the Framework except post-primary schooling leading to Junior Certificate and Leaving Certificate examinations or other examinations prescribed under the Section 50 of Education Act 1998, and”

### ***Explanatory note***

*Head 26 provides for an exemption for the listing of Junior Certificate, Leaving Certificate and other post-primary programmes and awards from QQI's database of awards.*

## **Head 27      Amendment of Section 80 of Principal Act (Fees)**

(1) Section 80 of the Principal Act is amended:

(a) by the insertion of the following paragraphs after paragraph 80 (1) (o):

“80 (1) (p) an application under section 30

“80 (1) (q) an application for the listing of an awarding body under section 55A”

“80 (1) (r) a review of a listed awarding body under Section 55B”

“80 (1) (s) an annual fee for the inclusion of the awards of a listed awarding body in the Framework”

(b) by the insertion of the following paragraph after paragraph 80 (2):

“80 (2) (a) The Authority may provide for the periodic payment of fees by providers on a consolidated basis in respect of services provided for which fees may be determined under subsection (1)”

### ***Explanatory note***

*Head 27 provides a legal basis for QQI to charge fees for certain services to education and training providers.*

**Head 28      Amendment of Section 84 of Principal Act (Transitional and savings provision for Act of 1999)**

- (1) Section 84 of the Principal Act is amended by the insertion of the following paragraph after paragraph 84 (1):

“84 (1) (a) Providers to whom subsection 84 (1) applies shall, within a period of not more than three years from the commencement of this subsection, make an application to the Authority under section 30. The quality assurance procedures of a provider that:

- (a) is not eligible to make such an application under the criteria established under Section 30 (A),
- (b) fails to make such an application, or
- (c) whose proposed procedures are refused approval by the Authority,

shall no longer be considered to be in force as if they had been established under Section 28”

- (2) Section 84 (4) is deleted and replaced with the following:

“Section 84 (4) Where a programme of education and training has been validated by the Further Education and Training Awards Council or the Higher Education and Training Awards Council under section 15 or 25 of the Act of 1999, as the case may be, and that validation has not been withdrawn before the coming into operation of section 45, then on that coming into operation and for an interval of time specified by the Authority, during which new learners may be enrolled on that programme,

- (a) the programme shall be taken to have been validated by the Authority under section 45, and
- (b) any conditions imposed under subsection (4) of section 15, or subsection (4) of section 25, of the Act of 1999, shall be taken to be conditions imposed under section 45(2),

and this Act shall apply accordingly”

***Explanatory note***

*Head 28 provides for the transitional and savings provisions in the Qualifications and Quality Assurance (Education and Training) Act 2012 to be time bound. Specifically, this means that QQI validation for all programmes will be time-limited*

### ***Part 3***

#### ***Amendments to other Acts***

#### **Head 29      Amendment of Regional Technical Colleges Act of 1992**

(1) Section 5 of the Regional Technical Colleges Act of 1992 is amended:

(a) by substituting the following paragraph for 5 (1) (b):

“5 (1) (b) to make awards, with the exception of doctoral degrees, to learners where the college has satisfied itself that the learner has acquired and demonstrated the appropriate standard of knowledge, skill or competence for qualifications in the National Framework of Qualifications”

(b) by the insertion of the following paragraph after Section 5 (2):

“5 (3) Awards under *subsection (1)(b)* may only be conferred, granted or given on the recommendation of the Academic Council to or on persons who satisfy the Academic Council that they have attended or otherwise pursued or followed appropriate courses of study, instruction, research or training provided by the Institute, or that they have previously acquired learning in accordance with procedures established by the Institute under Section 56 of the Qualifications and Quality Assurance Act (2102), and have attained an appropriate standard in examinations or other tests of knowledge or ability or have performed other exercises in a manner regarded by the Academic Council as satisfactory”

#### ***Explanatory note***

*Head 29 provides for the extension of award making powers at all levels of the National Framework of Qualifications, with the exception of doctoral degrees, to all of the Institutes of Technology. It also supports this by strengthening the autonomy of the Academic Council of the Institutes.*