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UNIVERSITIES ACT, 1997

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Number 24 of 1997

UNIVERSITIES ACT, 1997

AN ACT TO CONSTITUTE OR ESTABLISH CERTAIN COLLEGES AND UNIVERSITIES AS UNIVERSITIES UNDER THIS ACT, TO ALLOW FOR THE INCORPORATION OF EDUCATIONAL INSTITUTIONS AS PARTS OF UNIVERSITIES OR AS UNIVERSITIES IN THEIR OWN RIGHT, TO PROVIDE FOR THE GOVERNANCE OF UNIVERSITIES WHICH ARE IN RECEIPT OF MONEYS PROVIDED BY AN tÚDARÁS BY THE CONSTITUTING OF GOVERNING AUTHORITIES AND ACADEMIC COUNCILS AND PROVIDING FOR THEIR POWERS AND FUNCTIONS, TO MAKE CERTAIN PROVISIONS RELATING TO STAFF, PLANNING AND FINANCIAL SCRUTINY AND REPORTING OF UNIVERSITIES, TO AMEND OR PROVIDE FOR THE CONTINUATION AND AMENDING OF CERTAIN UNIVERSITY CHARTERS AND THE CONTINUATION OF STATUTES, TO REPEAL THE NATIONAL INSTITUTE FOR HIGHER EDUCATION, LIMERICK, ACT, 1980, THE NATIONAL INSTITUTE FOR HIGHER EDUCATION, DUBLIN, ACT, 1980, AND CERTAIN PROVISIONS OF OTHER ACTS, TO AMEND CERTAIN OTHER ACTS, AND FOR CONNECTED PURPOSES. [14th May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—This Act may be cited as the Universities Act, 1997.

Short title.

2.—This Act shall come into operation on such day or days as may be fixed therefor by order or orders made by the Minister under this section, either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions of this Act.

Commencement.

3.—(1) In this Act, unless the context otherwise requires—

Interpretation.

“An tÚdarás” means the body established by section 2 of the Higher Education Authority Act, 1971;

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“chairperson”, in relation to a governing authority, includes the chief officer, a deputy-chairperson and a person presiding at a meeting of the authority, while he or she is acting as the chairperson or so presiding;

“chief officer” means—

- (a) a person appointed under *section 24* as the chief officer of a university, or
- (b) the chief officer of a university, constituent college, Recognised College or educational institution, by whatever name known, continued in office for the purposes of this Act,

and includes a person acting in the office or performing the duties of a chief officer;

“commission” means a commission appointed under *section 23(1)*;

“constituent college” means a university college specified in *column 1* of the *Second Schedule*;

“constituent university” means a university specified in *column 2* of the *Second Schedule* or the National University of Ireland, Maynooth;

“Dublin City University” means the university established by *section 2* of the Dublin City University Act, 1989;

“employee”, in relation to a university, means a person employed by the university in any capacity, and includes an officer of the university;

“financial year” means a period of 12 months commencing on the 1st day of January in each year;

“first governing authority” means a governing authority of a university as that governing authority is first constituted after the commencement of *Part III* or, in the case of an additional university established under *section 9*, as first constituted after that university is established;

“functions” includes powers and duties;

“governing authority” includes—

- (a) a person or body appointed under *section 21(4)* to perform the functions of a governing authority,
- (b) in relation to the appointment of a new governing authority after the suspension of a governing authority of a university under *section 21(4)*, the Visitor of that university,
- (c) in relation to the appointment of the first governing authority of a university, the commission for that university, and
- (d) except to the extent that its functions are limited under *section 22*, a governing body continued in existence by that section;

“the Minister” means the Minister for Education; Pr.I S.3

“the National University of Ireland” means the university by that name in Dublin, constituted and founded by charter in pursuance of the Irish Universities Act, 1908;

“officer”, in relation to a university, includes—

- (a) a permanent, full-time member of the academic staff of the university,
- (b) the chief officer,
- (c) a person who immediately before the commencement of this Part is an officer of a university, constituent college or recognised college, and
- (d) such other employees as the governing authority may from time to time determine;

“Recognised College” means a recognised college of the National University of Ireland;

“the Senate” means the Senate of the National University of Ireland;

“statutes” means the statutes made under *section 33(1)* by a governing authority, and includes statutes continued in force by *section 33(3)*;

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

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

“Trinity College” means the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin established by charter dated the 3rd day of March, 1592, and shall be held to include the University of Dublin save where the context otherwise requires in accordance with the charters and letters patent relating to Trinity College;

“the University of Dublin” means the university established by the charters and letters patent incorporating Trinity College and which said university is further provided for by the letters patent of the 24th day of July, 1857;

“the University of Limerick” means the university established by section 2 of the University of Limerick Act, 1989;

“Visitor” means the Visitor or Visitors to a university or a person appointed under *section 19* to be a Visitor for any purpose under this Act.

(2) In this Act, including a Schedule to this Act—

- (a) a reference to any other enactment shall, except where the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act,

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- (b) a reference to a section, Chapter or Part is a reference to a section, Chapter or Part of this Act, unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and
- (d) a reference to a Schedule is a reference to a Schedule to this Act.

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

Application.

4.—(1) Without limiting its general application, but subject to *subsection (2)*, this Act shall apply to—

- (a) the constituent universities,
- (b) Dublin City University,
- (c) Trinity College,
- (d) the University of Limerick, and
- (e) such universities, if any, as are established under *section 9*,

as constituted from time to time, while they are institutions of higher education in receipt of moneys in accordance with the Higher Education Authority Act, 1971.

(2) *Sections 16(1) to (7), 21(6), 22, 23, 32 and 33* shall not apply to or in relation to Trinity College unless the Minister, by order made not earlier than three years after the commencement of *Part III*, declares that those provisions apply, in which case they shall apply as if a reference to the commencement of *Part III* were a reference to the date on which the order came into operation.

(3) The Minister shall not make an order under *subsection (2)* if, within the period of three years referred to in that subsection a Private Act is passed by the Oireachtas amending, in a manner consistent with the purpose and substance of the sections mentioned in that subsection, the charters and letters patent under which Trinity College and the University of Dublin are incorporated.

(4) An order made under *subsection (2)* may amend the charters and letters patent referred to in *subsection (3)* in such manner consistent with the sections mentioned in *subsection (2)* as is provided in the order.

Expenses.

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

Repeals and savings.

6.—(1) The enactments mentioned in *Part I* of the *First Schedule* are hereby repealed.

(2) The enactments mentioned in *column 2* of *Part II* of the *First Schedule* are hereby repealed to the extent mentioned in *column 3* of that Schedule opposite to those enactments mentioned in *column 1*. Pt.I S.6

PART II

ESTABLISHMENT AND IDENTITY OF UNIVERSITIES

7.—(1) The constituent colleges shall, by virtue of this section, become and be universities, and each college named in *column 1* of the *Second Schedule* shall be known by the corresponding name in the English language or in the Irish language in *column 2* of that Schedule opposite to the name mentioned in *column 1*. Reconstitution of constituent colleges.

(2) The universities as constituted by *subsection (1)* shall be constituent universities of the National University of Ireland and references to “college” or “constituent college” in the Irish Universities Act, 1908 or in the charter of the National University of Ireland, or in the charters of those constituent colleges, shall be construed as references to those constituent universities as constituted from time to time.

(3) A reference to a constituent college in any other Act or in a statutory instrument made under an Act, or in the memorandum or articles of association of any company or any other legal document, shall be construed as a reference to the corresponding constituent university referred to in *subsection (1)* as constituted from time to time.

(4) Where immediately before the commencement of this Part any legal proceedings in relation to a constituent college were pending to which the constituent college was party, the name of the corresponding constituent university shall on that commencement be substituted in the proceedings for the name of the constituent college, and the proceedings shall not abate by reason of the substitution.

8.—(1) If An tÚdarás considers that an educational institution or part of an educational institution should form part of a university, the Minister may by order made with the consent of the Minister for Finance, the institution concerned and the governing authority of the university, provide that the institution or part shall become and form part of the university, and on the making of the order it shall be so incorporated. Incorporation of educational institutions with existing universities.

(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) *Subsections (3) to (6) of section 44* shall apply to the staff of an institution who immediately before the incorporation provided for in *subsection (1)* were employees of the institution and who become employees of the university on such incorporation, in the same way as they apply to persons employed by St. Patrick’s College, Maynooth.

9.—(1) The Government may, at any time, appoint a body, the membership of which shall be recommended by An tÚdarás and shall include international experts and national experts, including Establishment of additional universities.

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employees of universities to which this Act applies, to advise An tÚdarás on whether, having regard to the objects and functions of a university under *sections 12 and 13*, an educational institution should be established as a university.

(2) On the advice of the body and the recommendation of An tÚdarás, but subject to *subsection (3)*, the Government may, by order, provide that the institution shall be a university for the purposes of this Act and, on the making of the order, it shall be established accordingly.

(3) The Government shall not make an order under *subsection (2)* unless it 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.

(4) A university established under *subsection (2)* shall be a body corporate with perpetual succession and an official seal and have power to sue and may be sued in its corporate name and to acquire, hold and dispose of land or any other property.

Change of name of university.

10.—(1) The Minister may, at the request of the governing authority of a university, and in the case of a constituent university with the consent of the Senate, by order, change the name of the university.

(2) A reference in any Act, statutory instrument made under an Act or legal or other document to a university by its name applying before it was changed under *subsection (1)* shall be construed as a reference to that university as so renamed.

(3) Notwithstanding *subsection (1)* and *section 7(1)*, a constituent university may extend its name in such manner as it considers appropriate to indicate that it is the successor to its corresponding constituent college.

Amendment of Dublin City University Act, 1989, and University of Limerick Act, 1989.

11.—(1) Section 2 of the Dublin City University Act, 1989, is hereby amended—

(a) in subsection (1), by the deletion of “and shall perform the functions assigned to it by the Act of 1980 as amended by this Act”; and

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

“(1A) The University is and shall continue to be the body corporate of that name in existence immediately before the commencement of *section 6* of the *Universities Act, 1997*, with the same perpetual succession, power to sue and be sued in its corporate name and to acquire, hold and dispose of land and any other property, as it then had.”.

(2) Section 2 of the University of Limerick Act, 1989, is hereby amended—

(a) in subsection (1), by the deletion of “and shall perform the functions assigned to it by the Act of 1980 as amended by this Act”, and

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

“(1A) The University is and shall continue to be the body corporate of that name in existence immediately before the commencement of *section 6* of the *Universities Act, 1997*, with the same perpetual succession, power to sue and be sued in its corporate name and to acquire, hold and dispose of land and any other property, as it then had.”.

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PART III

UNIVERSITIES GENERALLY

CHAPTER I

Objects and functions

12.—The objects of a university shall include—

Objects of
university.

- (a) to advance knowledge through teaching, scholarly research and scientific investigation,
- (b) to promote learning in its student body and in society generally,
- (c) to promote the cultural and social life of society, while fostering and respecting the diversity of the university’s traditions,
- (d) to foster a capacity for independent critical thinking amongst its students,
- (e) to promote the official languages of the State, with special regard to the preservation, promotion and use of the Irish language and the preservation and promotion of the distinctive cultures of Ireland,
- (f) to support and contribute to the realisation of national economic and social development,
- (g) to educate, train and retrain higher level professional, technical and managerial personnel,
- (h) to promote the highest standards in, and quality of, teaching and research,
- (i) to disseminate the outcomes of its research in the general community,
- (j) to facilitate lifelong learning through the provision of adult and continuing education, and
- (k) to promote gender balance and equality of opportunity among students and employees of the university.

13.—(1) The functions of a university are to do all things necessary or expedient in accordance with this Act and its charter, if any, to further the objects and development of the university.

Functions of
university.

(2) Without limiting the generality of *subsection (1)*, a university—

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- (a) shall provide courses of study, conduct examinations and award degrees and other qualifications,
- (b) shall promote and facilitate research,
- (c) may establish by incorporation in the State or elsewhere, or participate in the establishment 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 university,
- (d) 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 university,
- (e) shall maintain, manage and administer, and may dispose of and invest, the property, money, assets and rights of the university,
- (f) may collaborate with graduates, convocations of graduates and with associations representing graduates of the university both inside and outside the State,
- (g) may purchase or otherwise acquire, hold and dispose of land or other property, and
- (h) 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.

Academic freedom.

14.—(1) A 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,

and if, in the interpretation of this Act, there is a doubt regarding the meaning of any provision, a construction that would promote that ethos and those traditions and principles shall be preferred to a construction that would not so promote.

(2) A member of the academic staff of a 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 university, for the exercise of that freedom.

CHAPTER II

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Governance

15.—(1) Subject to *section 21*, each university shall have a governing authority established in accordance with this Act which shall be known by whatever name the governing authority decides.

Governing
authority.

(2) Subject to this Act, the functions of a university shall be performed by or on the directions of its governing authority.

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

(4) The *Third Schedule* shall apply to the governing authority.

16.—(1) Subject to this Part, a governing authority shall consist of such members, being not less than 20 or more than 40, as determined in accordance with this Chapter.

Composition of
governing authority.

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

(a) the chief officer,

(b) a person appointed under *section 17(3)* as the chairperson (if so appointed),

(c) at least one but not more than two senior officers of the university having responsibility to the chief officer for academic, financial or administrative affairs, appointed by the governing authority, one of whom shall be the senior officer having responsibility for academic affairs, and

(d) the following members elected in accordance with regulations made under *subsection (11)*:

(i) not less than two or more than six members of the academic staff of the university who are Professors or Associate Professors, elected by such staff;

(ii) not less than three or more than five permanent or full-time members of the other academic staff of the university elected by such staff;

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

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

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

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(3) Subject to *subsection (7)*, 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 one but not more than four persons, chosen by a committee of the governing authority comprising the chief officer and two other members, from among nominations made by such organisations as are representative of employers, trade unions, agriculture, fisheries, community organisations, Irish language and Gaeltacht organisations, the professions, business and industry as the governing authority considers appropriate, of whom at least one shall be chosen from those nominated by organisations representative of business or industry,
- (b) where by or under an Act there is established a body for a region in which the university is located a function of which is to advise the Minister in relation to the planning and co-ordination of education services at primary and post-primary levels, at least one but not more than two persons who are not members of the governing authority or employees of any other university, the Dublin Institute of Technology established by section 3 of the Dublin Institute of Technology Act, 1992, or a regional technical college established by or in accordance with section 3 of the Regional Technical Colleges Act, 1992,

chosen by a committee of the governing authority constituted as provided in *paragraph (a)*, from among persons nominated by that regional body, and

- (c) subject to *subsections (8) and (9)*, the same number of persons as chosen in accordance with *paragraph (a)*, who shall be appointed by the governing authority on the nomination of the Minister, after consultation by the Minister with the chief officer.

(4) In addition to the members chosen and appointed pursuant to *subsections (2) and (3)*, but included in the maximum number of members specified in *subsection (1)*, a governing authority may have as members not more than—

- (a) four persons appointed having particular regard to the extent to which artistic and cultural interests are represented among the members, and
- (b) four graduates of the university, elected by such graduates and, in the case of a constituent university, graduates for the purposes of this subsection includes persons on whom a degree of the National University of Ireland was conferred as a result of their studies at the corresponding constituent college or Recognised College,

who, subject to *subsection (7)*, shall be chosen and appointed as determined by the governing authority.

(5) In addition to the members chosen and appointed pursuant to *subsections (2), (3) and (4)*, but included in the maximum number of members specified in *subsection (1)*, the governing authorities shall appoint as members—

- (a) in the case of Dublin City University—

- (i) one person chosen by a committee of the governing authority comprising the chief officer and two other members, from among persons nominated for that purpose by the councils of the administrative counties of Fingal, South Dublin and Dún Laoghaire-Rathdown and the Corporation of Dublin county borough, and Pr.III S.16
 - (ii) at least one but not more than three persons chosen by a committee of the governing authority comprising the chief officer and two other members, from among persons nominated for that purpose by the Dublin City University Educational Trust or its successor body,
- (b) in the case of the National University of Ireland, Cork—
- (i) the Lord Mayor of Cork,
 - (ii) the Mayor of Waterford,
 - (iii) two persons nominated by the National University of Ireland, and
 - (iv) five persons elected by the councils of the administrative Counties of Cork, Waterford, Kerry, Limerick, Tipperary (North Riding) and Tipperary (South Riding),
- (c) in the case of the National University of Ireland, Dublin—
- (i) the Lord Mayor of Dublin,
 - (ii) two persons nominated by the National University of Ireland, and
 - (iii) eight persons elected by the members of the General Council of County Councils,
- (d) in the case of the National University of Ireland, Galway—
- (i) two persons nominated by the National University of Ireland, and
 - (ii) seven persons elected by the members of the Corporation of the County Borough of Galway and the councils of the administrative Counties of Galway, Mayo, Sligo, Clare, Leitrim and Roscommon,
- (e) in the case of the National University of Ireland, Maynooth—
- (i) two persons nominated by the National University of Ireland, and
 - (ii) three persons chosen by the chief officer from among persons nominated for that purpose by the Trustees for the time being of St. Patrick's College, Maynooth,
- (f) in the case of Trinity College, not less than three or more than six fellows of Trinity College chosen as determined by the governing authority,

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(g) in the case of the University of Limerick—

- (i) the chairperson of the council of the administrative county of Limerick or a person nominated by him or her,
- (ii) the Mayor of Limerick, and
- (iii) at least one but not more than three persons chosen by a committee of the governing authority comprising the chief officer and two other members, from among persons nominated for that purpose by the University of Limerick Foundation or its successor body.

(6) Where an educational institution is associated with a university in accordance with an agreement between that institution and the university and that agreement provides that the governing authority of the university shall have as members employees or students of the institution then, in addition to the members chosen and appointed pursuant to *subsections (2) to (5)*, but included in the maximum number of members specified in *subsection (1)*, the governing authority shall include such members as are so provided for.

(7) Except in the case of a person appointed under *subsection (4)* where the governing authority has waived the restriction otherwise imposed by this subsection, a member referred to in *subsection (3)* or *(4)* shall not be an employee or a student of the university.

(8) Where immediately before the commencement of this Part a governing body (by whatever name known) of a university or constituent college contained members appointed by the Minister or the Government, the number of members of the governing authority to be appointed on the nomination of the Minister in accordance with *subsection (3)(c)* shall be not less than the number of persons so appointed and holding office immediately before the commencement of this Part, or three persons, whichever is the lesser number.

(9) In nominating persons for the purposes of *subsection (3)(c)*, the Minister shall ensure that there are at least two members of the governing authority chosen or to be appointed under *subsection (3)(a)* or *(c)* who are nominated by organisations representative of business or industry or who, in the opinion of the Minister, are representative of business or industry.

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

(11) A governing authority may make such regulations relating to the selection, election, nomination or appointment of members of the governing authority as it thinks fit, and their selection, election, nomination or appointment shall be carried out in accordance with those regulations.

Chairperson of
governing authority.

17.—(1) The first meeting of a governing authority of a university shall be chaired by the chief officer and, subject to this section, at that meeting and from time to time as the governing authority determines, the governing authority shall decide whether—

(a) the holder of the office of chief officer should be or continue to be the chairperson, or Pr.III S.17

(b) a person other than the holder of the office of chief officer should be appointed as chairperson.

(2) Where the governing authority decides that the holder of the office of chief officer should be the chairperson then, subject to this section, the chief officer shall, *ex officio*, be the chairperson on and from the passing of the resolution to that effect.

(3) Where the governing authority decides at a meeting that a person other than the chief officer should be the chairperson, it shall, as soon as practicable at that or a subsequent meeting, by a majority vote of not less than two-thirds of its members, appoint a person who is not an employee of the university or a member of the governing authority to be the chairperson.

(4) Until a person is appointed under *subsection (3)*, but subject to this section, the chief officer shall act as chairperson of all meetings of the governing authority.

(5) Subject to this section, a chairperson appointed under *subsection (3)* shall hold office on such terms and conditions as the governing authority may, at the date of his or her appointment, determine.

(6) A person holding office as chairperson of a governing authority in accordance with *subsection (3)* may, at any time for stated reasons, be removed from the office of chairperson by the governing authority and where a person is so removed from office, *subsections (1), (2) and (3)*, with the necessary modifications, shall apply.

(7) In the case of the governing authority of Trinity College or a constituent university, the person holding the office of chief officer (by whatever name known) on the commencement of this Part shall be the chairperson of the governing authority of that university under this Act until his or her term of office as chief officer expires, he or she is sooner removed from the office of chairperson in accordance with *subsection (6)*, or the office otherwise becomes vacant.

(8) Where immediately before the commencement of this Part the chief officer of a university was not the chairperson (by whatever name known) of the governing body (by whatever name known) of the university, then, except for the first meeting of a governing authority of the corresponding university under this Act or in the circumstances referred to in *subsection (4)*, the chief officer shall not be eligible to be the chairperson of the governing authority.

(9) An appointment under *subsection (3)* shall not be on a full-time basis and the person appointed shall exercise no function in respect of the control and management of the university other than the functions of chairperson of the governing authority.

18.—(1) The functions of the governing authority of a university shall be, in pursuance of the objects of the university under *section 12* but within the constraints of its budget under *section 37*— Functions of governing authority.

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

(b) to appoint the chief officer and such other employees as it thinks necessary for the purposes of the university,

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(c) subject to this Act and its charter, if any, statutes and regulations, to determine the membership from time to time of the governing authority, and

(d) to perform such other functions as are imposed on it by or under this or any other Act or by its charter, if any, statutes and regulations.

(2) For the purposes of the performance of its functions under *subsection (1)(b)*, the governing authority shall develop such interview and other procedures as in its opinion will best ensure participation in the selection process by high quality candidates from both within and outside of the employees of the university and specify those procedures in a statute or regulation.

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

(4) A governing authority may, from time to time, appoint such and as many committees, consisting either wholly or partly of members of the governing authority, 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 authority may direct and its acts shall be subject to confirmation by the governing authority unless the governing authority otherwise directs.

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

(a) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions;

(b) have regard to the attainment of gender balance and equality of opportunity among the students and employees of the university and shall, in particular, promote access to the university and to university education by economically or socially disadvantaged people and by people from sections of society significantly under-represented in the student body; and

(c) ensure as far as it can that the 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.

Visitor.

19.—(1) Where a university does not have a Visitor, the Government shall from time to time as the occasion requires, following consultation with the President of the High Court, appoint a Judge of the High Court, or a retired Judge of the High Court or the Supreme Court, to be the Visitor for the purposes of this Act.

(2) Where a Visitor appointed under *subsection (1)* resigns or otherwise becomes incapable of performing his or her functions the Government may appoint another such person to replace that Visitor.

20.—(1) Where the Minister is of the opinion that there are reasonable grounds for contending that the functions of a university are being performed in a manner which *prima facie* constitutes a breach of the laws, statutes or ordinances applicable to the university, the Minister may, after first advising the governing authority of his or her opinion and considering any explanation given in response, and with the concurrence of the Government, request the Visitor to the university to inquire into any matter giving rise to the Minister's opinion.

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Visitation.

(2) If the Visitor is satisfied that there are reasonable grounds for the Minister's opinion, the Visitor shall inquire into the matters giving rise to that opinion and any related matter and report to the Minister on the results of the inquiry.

(3) A Visitor shall, for the purposes of this section, be entitled at all reasonable times to enter a university to inquire into the academic or other affairs of the university or to conduct an inspection of the university and its buildings, equipment and records where the inspection is, in the opinion of the Visitor, relevant to his or her inquiries.

(4) A Visitor shall be afforded all reasonable co-operation and facility by the university, its employees and its governing authority, including access to such buildings, equipment and records as the Visitor may require, to enable the Visitor to perform his or her functions under this section.

21.—(1) Where the Minister, after considering the report of an inquiry by a Visitor made in pursuance of a request under *section 20(1)*, is of the opinion that the functions of a university or its governing authority are being performed in a manner which constitutes a breach of the laws, statutes or ordinances of or applicable to the university, the Minister shall so inform the chief officer and give to the chief officer a copy of the report of the Visitor.

Suspension of
governing authority.

(2) The Minister may, after a period of 14 days commencing on the day on which he or she gave to the chief officer the report of the Visitor and after considering the observations, if any, of the governing authority or the chief officer on the report—

(a) if the Minister is still of the opinion that the functions are being performed in a manner which constitutes a breach of the laws, statutes or ordinances of or applicable to the university; and

(b) is of the opinion that, because of the report, the governing authority should be suspended and the Visitor concurs,

recommend to the Government the suspension of the governing authority and the termination of the membership of its members.

(3) On receiving the recommendation of the Minister the Government may, by order but subject to *subsection (8)*, suspend the governing authority.

(4) Where the Government makes an order under *subsection (3)*, the Visitor to the university shall, following consultation with the Minister and such persons within the university as the Visitor considers appropriate, appoint such person or body of persons as the Visitor thinks fit to perform the functions of the governing authority

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and that person or body shall perform those functions until the commencement of the first meeting of the governing authority after the appointment of its members in pursuance of *subsection (6)*.

(5) The remuneration, if any, of a person or member of a body appointed under *subsection (4)* shall be paid out of moneys provided by the Oireachtas.

(6) The Visitor shall, as soon as practicable, but in any case not later than 12 months, after the suspension of a governing authority, following consultation with such persons within the university as the Visitor considers appropriate, determine the composition of the new governing authority and, by notice in writing, inform the Minister of the composition as so determined.

(7) On the Minister being informed as provided in *subsection (6)*, the governing authority shall be so constituted as so determined, in accordance with *Chapter II*.

(8) Where the Government proposes to make an order under *subsection (3)*, it shall cause a draft of the proposed order to be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by both Houses.

CHAPTER III

Interim Arrangements

Governing bodies of existing colleges, etc., to continue in office until first governing authorities constituted.

22.—A governing body (by whatever name known) of—

- (a) a constituent college or a university to which this Act applies and holding office on the commencement of this Part, or
- (b) an educational institution established under *section 9* as an additional university and holding office immediately before its establishment as a university,

shall continue in existence after that commencement or the establishment of the institution as a university, as the case may be, notwithstanding the repeal of any provision of an enactment by or under which that governing body was constituted and, except in relation to the appointment of the first governing authority of the university, shall have the functions of a governing authority under this Act until the first governing authority is duly constituted under this Act.

Determination of composition of first governing authority.

23.—(1) Subject to *section 16*, the Minister shall, as soon as practicable after the commencement of this Part, in respect of each university to which this Act applies, and after the establishment under *section 9* of any additional university in respect of that university, appoint a commission for the university.

(2) The members of a commission shall, subject to *subsection (3)*, be—

- (a) in the case of a constituent university—

- (i) the chief officer,
 - (ii) the Registrar of the university,
 - (iii) two members of the governing body (by whatever name known) of its corresponding constituent college holding office immediately before the commencement of this Part, at least one of whom shall be a member of the academic staff of the university, nominated by that governing body,
 - (iv) the Chancellor of the National University of Ireland or a person nominated by the Chancellor, and
 - (v) the Chairman of An tÚdarás or a person nominated by the Chairman,
- (b) in the case of Dublin City University or the University of Limerick—
- (i) the chief officer,
 - (ii) the Registrar of the university,
 - (iii) two members of the Governing Body of the university holding office immediately before the commencement of this Part, at least one of whom shall be a member of the academic staff of the university, nominated by that Governing Body, and
 - (iv) the Chairman of An tÚdarás or a person nominated by the Chairman,
- (c) in the case of Trinity College—
- (i) the Provost and the vice-Provost,
 - (ii) the Chancellor of the University of Dublin, or a nominee of the Chancellor,
 - (iii) two members of the Board of the College holding office immediately before the commencement of this Part, nominated by that Board, and
 - (iv) the Chairman of An tÚdarás or a person nominated by the Chairman, and
- (d) in the case of an educational institution established under *section 9* as a university—
- (i) the chief officer (by whatever name known) of the institution holding office immediately before its establishment as a university,
 - (ii) the senior officer of the institution having responsibility to the chief officer for academic affairs, holding office immediately before its establishment as a university,
 - (iii) such members of the governing body (by whatever name known) of the institution holding office immediately before its establishment as a university as the Minister determines after consultation with that governing body, and

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- (iv) the Chairman of An tÚdarás or a person nominated by the Chairman.

(3) If a person specified as a member of a commission in, or nominated as such under, *subsection (2)* is unable or unwilling to act as a member, the remaining members shall nominate a person to replace that person as a member, and the Minister shall appoint the nominated person accordingly.

(4) The first meeting of a commission shall be convened by the chief officer and at the meeting the members shall appoint one of their number to act as chairperson of the commission.

(5) A commission shall, as soon as practicable after the date of the appointment of its members and in any case not later than three months from that date, in accordance with *section 16*, determine the composition of the governing authority of its university and, by notice in writing, inform the Minister of the composition as so determined.

(6) If a commission fails to determine the composition of a governing authority as required by *subsection (5)*, the Visitor shall appoint such person or body of persons as the Visitor thinks fit to carry out the functions of the commission.

(7) A commission, or person or body appointed under *subsection (6)*, shall remain in office until the first meeting of the relevant governing authority constituted in accordance with this Act and at the commencement of that meeting the commission or body is, by virtue of this section, dissolved.

CHAPTER IV

Staff of University

Chief officer.

24.—(1) A governing authority shall, in accordance with procedures specified in a statute, appoint in a whole-time capacity a person to be chief officer of its university, who shall be called the President or Provost or by such other title as the governing authority determines, and the person so appointed shall be the accounting officer for the university.

(2) For the purposes of section 19 of the Comptroller and Auditor General (Amendment) Act, 1993, the expression “accounting officer” shall include a chief officer of a university to which this Act applies.

(3) The *Fourth Schedule* shall apply to the chief officer.

Staff.

25.—(1) Subject to *subsection (2)*, a university may, in accordance with procedures specified in a statute or regulation, 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

(c) the guidelines, if any, issued under *section 50*.

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

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

(4) Subject to *subsection (5)*, there shall be paid by a university to the employees of that 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 Finance.

(5) (a) A university may depart from levels of remuneration, fees, allowances and expenses approved under *subsection (4)* where the governing authority is satisfied that it is necessary to meet the objects of the university, but may do so only in accordance with a framework which shall be agreed between the universities and An tÚdarás.

(b) A corporation referred to in *section 13(2)(c)* may pay to employees of a university remuneration, fees, allowances and expenses only in accordance with a framework which shall be agreed between the universities and An tÚdarás.

(6) A university may suspend or dismiss any employee but only in accordance with procedures, and subject to any conditions, specified in a statute made following consultation through normal industrial relations structures operating in the 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.

(7) A university or the National University of Ireland shall determine the terms and conditions of any superannuation scheme for its employees in accordance with the *Fifth Schedule* and that Schedule shall apply to an amendment to an existing scheme in the same way as it applies to a new scheme.

(8) For the removal of doubt, it is hereby declared that—

(a) the rights and entitlement in respect of tenure, remuneration, fees, allowances, expenses and superannuation enjoyed on the commencement of this section by persons who are employees, and in the case of superannuation, former employees, of a university to which this Act applies shall not, by virtue of the operation of this Act, be any less beneficial than those rights and entitlements enjoyed by those persons as employees of the university or corresponding constituent college or Recognised College immediately before that commencement, and

(b) the conditions of service, restrictions and obligations to which such persons were subject immediately before the commencement of this Act shall, unless they are varied by agreement, continue to apply to such persons and shall

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be exercised or imposed by the university or the chief officer as may be appropriate, while such persons are employed by the university.

Dispute resolution.

26.—(1) A governing authority shall establish procedures for the resolution of disputes which arise in the university, other than disputes to be dealt with through normal industrial relations structures operating in the university or appeals conducted in accordance with *section 27(2)(e)*.

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

- (a) be specified in a statute,
- (b) be established following consultation with trade unions and staff associations representing employees of the university and with the students union or other student representative body, and
- (c) provide for consideration of issues in dispute by an independent person or persons, as appropriate, one of whom, in the case of a constituent university, shall be a nominee of the Chancellor of the National University of Ireland.

(3) *Subsections (1) and (2)* shall not apply to Trinity College.

CHAPTER V

Academic Council

Academic council.

27.—(1) Each university shall have an academic council which shall, subject to the financial constraints determined by the governing authority and to review by that authority, control the academic affairs of the university, including the curriculum of, and instruction and education provided by, the 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 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 make recommendations on programmes for the development of research,
- (d) to make recommendations relating to the selection, admission, retention and exclusion of students generally,
- (e) to propose the form and contents of statutes to be made relating to the academic affairs of the 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, Pr.III S.27 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 authority, and
- (i) to implement any statutes and regulations made by the governing authority relating to any of the matters referred to in this subsection.

28.—(1) The majority of members of the academic council shall be members of the academic staff of the 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—

Composition of
academic council.

- (a) the senior member of staff having responsibility to the chief officer for each academic discipline, school or department as the governing authority determines, or, in the case of Trinity College, the senior member of staff having responsibility to the chief officer for each faculty,
- (b) members from what, in the opinion of the governing authority, is an appropriate range of levels of other academic staff from an appropriate range of academic disciplines, and
- (c) an appropriate number of students.

(2) 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 university, constituent college or Recognised College holding office immediately before the commencement of this Part or, in the case of an educational institution established under *section 9* as a university after that commencement, with the members of the academic council (by whatever name known) of that institution holding office immediately before the date on which the educational institution was so established as a university.

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

29.—(1) Subject to this Act and any directions of the governing authority, an academic council shall hold such meetings as it thinks necessary to perform its functions and may regulate its own procedure.

Business of
academic council.

(2) 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.

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

(4) 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.

Continuation of
existing academic
councils.

30.—(1) An academic council (by whatever name known) of a university, constituent college or Recognised College holding office immediately before the commencement of this Part shall, after that commencement and notwithstanding the repeal of any provision of an enactment under which it was constituted, continue to exist as if that provision had never been repealed.

(2) An academic council continued in existence under *subsection (1)* shall be the academic council for the university, with all the powers of an academic council under this Act, until an academic council for the university is established in accordance with this Chapter or the day which is one year from the date of commencement of this Part, whichever is earlier.

CHAPTER VI

Charters and Statutes

Charters and
supplementary
charters.

31.—(1) A university may have a charter, not in conflict with this Act, setting out all or any of the following:

- (a) its objects and functions in respect of its academic and administrative affairs;
- (b) the arrangements it has for the promotion and use of the Irish language and the promotion of Irish cultures;
- (c) the composition of the governing authority and its functions;
- (d) the rights of its employees and students and their responsibility towards the university and the responsibility of the university towards them;
- (e) the arrangements for review of, or appeals against, decisions of the governing authority or the academic council which affect employees or students;
- (f) its policy in respect of the promotion of equality of opportunity among students and employees;
- (g) its policy in respect of adult and continuing education and the arrangements in place for the provision of that education, including part-time and evening courses; and
- (h) any other matters the governing authority may consider relevant.

(2) In preparing a charter, the governing authority shall consult, in such manner as it thinks appropriate, with the academic staff and other employees of the university, any recognised trade union or staff association, any recognised student union or other student representative body, or with any other person or group, both within and outside of the university, it considers should be consulted.

(3) A charter made under this section by a governing authority of a constituent university or Trinity College shall be supplemental to the charter of that university in force at the commencement of this Part. Pr.III S.31

(4) A draft of a proposed charter under this section may be submitted by the governing authority to the Government with a request that it be recognised, and the Government shall, by order, recognise the charter as so drafted.

(5) An order under *subsection (4)* shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done under the order or the charter which the order recognised.

32.—(1) A reference to the Irish Universities Act, 1908, in Clauses I, III and VIII of the charters of the constituent colleges and in Clause I of the charter of the National University of Ireland shall be construed as a reference to that Act and the *Universities Act, 1997*. Preservation of charters.

(2) The Government may, by order made on the application of a university, amend the charter of the university in a manner agreed to by the university.

(3) Where a university considers that its charter, as amended by or under this Act, should be consolidated into a single instrument, it may submit to the Government a copy of the consolidated charter and the Government, if it agrees, may by order recognise the charter as so consolidated.

(4) An order under this section shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done under the order or the consolidated charter which the order recognised.

33.—(1) Subject to this Act and to the charter, if any, of the university, a governing authority of a university or the Senate 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 university. Statutes.

(2) A governing authority shall, as soon as practicable after the making of a statute or a regulation under *section 17(2)* or *24(1)*, inform An tÚdarás and the Minister of the making of the statute and shall arrange for its publication in the *Iris Oifigiúil*.

(3) The statutes in force immediately before the commencement of this Part in a university to which this Act applies or its corresponding constituent college or Recognised College shall, so far as they are consistent with this Act, continue in force as statutes of the university or the corresponding constituent university on and after that commencement but may be repealed or amended by a statute made under *subsection (1)*.

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(4) Section 5 of the Irish Universities Act, 1908, is hereby repealed.

CHAPTER VII

*Planning and Evaluation*Strategic
development plan.

34.—(1) A governing authority 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 authority for the operation and development of the university and its strategy for achieving those aims, and for carrying out the functions of the university, during the period, being not less than three years, to which the plan relates.

(2) A governing authority may, having regard to the resources available to the 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 authority shall provide a copy of the plan to An tÚdarás and to the Minister.

Quality assurance.

35.—(1) A governing authority, in consultation with the academic council, shall, as soon as practicable after the governing authority is established under this Act and at such other times as it thinks fit, require the chief officer to establish procedures for quality assurance aimed at improving the quality of education and related services provided by the university.

(2) The procedures shall include—

(a) the evaluation, at regular intervals and in any case not less than once in every 10 years or such longer period as may be determined by the university in agreement with An tÚdarás, of each department and, where appropriate, faculty of the university and any service provided by the university, by employees of the university in the first instance and by persons, other than employees, who are competent to make national and international comparisons on the quality of teaching and research and the provision of other services at university level, and

(b) assessment by those, including students, availing of the teaching, research and other services provided by the university,

and shall provide for the publication in such form and manner as the governing authority thinks fit of findings arising out of the application of those procedures.

(3) A governing authority shall implement any findings arising out of an evaluation carried out in accordance with procedures established under this section unless, having regard to the resources available to the university or for any other reason, it would, in the opinion of the governing authority, be impractical or unreasonable to do so.

(4) A governing authority shall, from time to time, and in any case at least every 15 years, having regard to the resources available to

the university and having consulted with An tÚdarás, arrange for a review of the effectiveness of the procedures provided for by this section and the implementation of the findings arising out of the application of those procedures. Pr.III S.35

(5) A governing authority, in a report prepared in accordance with *section 41*, shall publish the results of a review conducted under *subsection (4)*.

36.—(1) A governing authority 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 university in respect of— Equality policy.

(a) access to the university and to 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 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 authority may, having regard to the resources available to the 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 university shall implement the policies set out in the statement as approved under *subsection (2)*.

CHAPTER VIII

Finance, Property and Reporting

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

(2) An tÚdarás shall, having regard to the statement and after consultation with the governing authority of a university, determine the amount of money to be allocated to the university for the financial year from moneys provided to An tÚdarás pursuant to section 12 of the Higher Education Authority Act, 1971, and the amount so allocated, together with the other expected income of the university as agreed with An tÚdarás, shall be the budget of the university for the financial year.

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

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

(5) Where the chief officer of a university is of the opinion that a proposed course of action of the governing authority will or is likely to result in expenditure in excess of the budget which has not been increased in accordance with *subsection (4)*, (in this section referred to as a “material departure from the budget”) the chief officer shall so inform the governing authority.

(6) Where a governing authority, despite being informed as required by *subsection (5)*, 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 tÚdarás of the decision of the governing authority.

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

Borrowing and loan guarantees.

38.—(1) A 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 universities and An tÚdarás, following consultation by An tÚdarás with the Minister and the Minister for Finance.

Keeping of accounts and records.

39.—(1) A 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 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 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.

Fees.

40.—(1) A 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 university.

(2) An tÚdarás may review with the universities 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 universities on the fees which in its opinion should be charged. Pr.III S.40

41.—(1) The chief officer shall, with the approval of the governing authority and having regard to the strategic development plan under *section 34*, 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 authority thinks fit, prepare a report on the operations and the performance of the university during that period. Report and information.

(2) The governing authority 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.

42.—(1) Subject to *subsection (2)*, a university may sell or otherwise dispose of any land the property of the university. Disposal of land, etc.

(2) Where the acquisition, development or refurbishment of land, the property of a 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 authority.

(3) If a university ceases to be funded substantially from moneys provided by the Oireachtas, then all moneys provided to the 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 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 authority.

(4) Where the Minister and a governing authority 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.

CHAPTER IX

The National University of Ireland, Maynooth

43.—(1) The Recognised College of St. Patrick's College, Maynooth is hereby established as a constituent university of the National University of Ireland and shall bear, and be known by, the name National University of Ireland, Maynooth, or in the Irish language, Ollscoil na hÉireann, Má Nuad. Establishment of National University of Ireland, Maynooth.

(2) The National University of Ireland, Maynooth shall be a body corporate with perpetual succession and an official seal and have power to sue and may be sued in its corporate name and to acquire, hold and dispose of land or any other property.

Pt. III

Transfer of existing staff.

44.—(1) Every person who, immediately before the commencement of this Part, was employed by St. Patrick's College, Maynooth and who was paid, in respect of that employment, exclusively from moneys provided by the Oireachtas shall, on the commencement of this Part, become and be an employee of the National University of Ireland, Maynooth.

(2) Every person who, immediately before the commencement of this Part, was employed by St. Patrick's College, Maynooth and who was paid, in respect of that employment, partly by St. Patrick's College and partly from moneys provided by the Oireachtas shall, on the commencement of this Part, remain as an employee of St. Patrick's College on the date of commencement of this Part but may thereafter, with the agreement of St. Patrick's College and the governing authority of the university, become and be an employee of the National University of Ireland, Maynooth.

(3) A person to whom *subsection (1)* applies or who by virtue of *subsection (2)* becomes an employee of the National University of Ireland, Maynooth shall not, while in the service of the university, receive less remuneration or be subject to less beneficial conditions of service than the remuneration at the level to which he or she was entitled, and conditions of service to which he or she was subject, immediately before the commencement of this Part.

(4) The conditions of service, restrictions, requirements and obligations to which a person to whom *subsection (3)* applies was subject immediately before the commencement of this Part shall, unless they are varied by agreement, continue to apply to the person, and shall be exercised or imposed by the university or the chief officer as may be appropriate, while that person is in the service of the university.

(5) The university may, following consultation through normal industrial relations structures operating in the university with any recognised staff associations or trade unions concerned, redistribute or rearrange the duties to be performed by employees to whom *subsection (3)* applies and those employees shall be bound to perform the duties allocated in any such redistribution or rearrangement.

(6) A redistribution or rearrangement referred to in *subsection (5)* shall not be taken to be removal from or abolition of office for the purpose of any scheme or enactment relating to superannuation or compensation for loss of office.

PART IV

NATIONAL UNIVERSITY OF IRELAND

Amendment of Charter of National University of Ireland.

45.—(1) Clause VI of the Charter of the National University of Ireland is hereby amended by the deletion of "the General Board of Studies,".

(2) Clause X of the Charter of the National University of Ireland is hereby amended by—

(a) the repeal of sub-clauses (2), (3) and (4), and

(b) the substitution of the following for sub-clause (5):

"(5)(i) The Senate shall be constituted by—

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Universities Act, 1997.

[No. 24.]

- (a) the Chancellor and the Registrar of the University and the chief officers of the constituent universities, Pr.IV S.45
- (b) four persons nominated by the Government, two of whom shall be women and two men,
- (c) four persons elected by each of—
 - (i) the National University of Ireland, Dublin,
 - (ii) the National University of Ireland, Cork,
 - (iii) the National University of Ireland, Galway, and
 - (iv) the National University of Ireland, Maynooth,
- (d) eight members of Convocation elected by Convocation of the University, four of whom shall be women and four men,
- (e) not more than four persons co-opted to be members of the Senate by the Senate as constituted by the members appointed as referred to in paragraphs (a), (b), (c) and (d).

(ii) The governing authorities of the constituent universities shall determine the procedures for electing persons to the Senate, as provided for in paragraph (i), and those procedures shall ensure an appropriate gender balance, as determined or approved from time to time by the Minister, among the persons so elected and shall be set out in a statute of each university.

(iii) The members, other than *ex officio* members, shall hold office for a period not exceeding five years for which they are elected or nominated and a member whose term of office expires by effluxion of time shall be eligible to again be a member.

(iv) The Statutes shall prescribe, so far as may be necessary, the time at which and the manner in which a person may become a member of the Senate.”.

(3) The Charter of the National University of Ireland is hereby amended by the deletion of subclauses (1) and (4) of Clause XIV.

(4) Clause XIX of the Charter of the National University of Ireland is hereby amended by the deletion of “the General Board of Studies,”.

46.—The Irish Universities Act, 1908, is hereby amended—

Amendment of
Irish Universities
Act, 1908.

(a) in section 1(2), by the deletion of “, and after the expiration of that time be constituted in manner provided by the First Schedule to this Act”,

(b) by the deletion of section 3(2) and (3),

Pt.IV S.46

- (c) in section 4(3), by the deletion of “or college”, wherever occurring,
- (d) in section 7(4), by the deletion of all words after “religious worship or observance”,
- (e) in section 7(6), by the deletion of “and the governing bodies of the constituent colleges of the new university having its seat at Dublin respectively”, and
- (f) by the deletion of the First Schedule thereto.

Relationship of
constituent
universities to
National University
of Ireland.

47.—(1) The Senate of the National University of Ireland shall determine the basic matriculation requirements for the constituent universities but each university may prescribe additional requirements generally or in respect of particular faculties of the university.

(2) Each constituent university shall inform the Senate of the courses established from time to time by that university and the Senate may establish a committee for the purpose of reviewing the content and teaching of the courses and may appoint external examiners to assist in any review.

(3) The results of a review conducted by a committee shall be communicated by the Senate to the university concerned.

(4) The Senate shall appoint such and so many external examiners to a constituent university, including examiners appointed for the purpose of *subsection (2)*, as that university shall from time to time recommend and the functions of those external examiners shall be determined by the Senate, with the concurrence of the university.

(5) The degrees and other qualifications awarded by a constituent university shall be degrees and qualifications of the National University of Ireland and shall be so designated.

(6) Where the President or any other employee of a constituent college was appointed by the National University of Ireland, the powers and functions of that University in respect of his or her removal from office shall, notwithstanding anything in this Act, remain in force in relation to that person.

Membership of
constituent
universities.

48.—(1) The members of each constituent university shall be—

- (a) the members of its governing authority,
- (b) the members of its academic council,
- (c) its employees,
- (d) its students,
- (e) its graduates, and
- (f) such other persons as its governing authority may appoint to be members.

(2) All students of a constituent college or the Recognised College of St. Patrick’s College, Maynooth on whom a degree of the National University of Ireland was conferred as a result of their studies at the college before the commencement of *Part III* shall be regarded as

graduates of the corresponding constituent university for the purposes of *subsection (1)(e)*. Pr.IV S.48

PART V

AN tÚDARÁS

49.—An tÚdarás, in furtherance of its general functions under section 3 of the Higher Education Authority Act, 1971, shall assist the universities in achieving the objectives of *Chapters IV, VII and VIII of Part III* and may review— Reviews.

- (a) strategic development plans prepared in accordance with *section 34*,
- (b) the procedures established in accordance with *section 35*,
- (c) the policies set out in the statement provided for in *section 36* and their implementation, and
- (d) the matters referred to in *section 50*, having regard to any guidelines issued in accordance with that section and information provided in accordance with *section 51*,

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

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

- (a) the numbers or grades of employees of the university, or
- (b) the proportion of the budget of the university to be applied to the different activities of the university.

(2) Guidelines issued under *subsection (1)* shall not be binding on a university, and if a university departs from those guidelines An tÚdarás shall not, as a result of such departure, impose restrictions or conditions on the use of moneys paid to the university by An tÚdarás or otherwise limit moneys payable to the university by An tÚdarás.

51.—A university shall provide An tÚdarás with such information as An 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. Information on staffing.

PART VI

MISCELLANEOUS

52.—(1) Except in relation to an educational institution or facility established and described as such before the 30th day of July, 1996, (in which case it may continue to be so described), a person shall not, without the approval of the Minister, use the word “university” to describe an educational establishment or facility. Educational institution not to be described as university.

(2) The Minister may apply to the High Court for an injunction to restrain any person from using the word “university” in contravention of *subsection (1)*.

[No. 24.]

Universities Act, 1997.

[1997.]

FIRST SCHEDULE

ENACTMENTS REPEALED

PART I

No. and Year	Short Title
No. 25 of 1980	National Institute for Higher Education, Limerick, Act, 1980
No. 30 of 1980	National Institute for Higher Education, Dublin, Act, 1980

PART II

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 14 of 1989	University of Limerick Act, 1989	Sections 3, 4 and 5
No. 15 of 1989	Dublin City University Act, 1989	Sections 3, 4 and 5

SECOND SCHEDULE

TABLE

Constituent College (1)	Name of Constituent University (2)
University College, Cork	National University of Ireland, Cork Ollscoil na hÉireann, Corcaigh
University College, Dublin	National University of Ireland, Dublin Ollscoil na hÉireann, Baile Átha Cliath
University College, Galway	National University of Ireland, Galway Ollscoil na hÉireann, Gaillimh

THIRD SCHEDULE

GOVERNING AUTHORITY

1. (1) As soon as practicable after its establishment, the governing authority of a university shall provide and retain in its possession a seal of the university.

(2) The seal of a university shall be authenticated by the signature of the chairperson or a member of the governing authority, and by the signature of an employee of the university, authorised by the governing authority to act in that behalf.

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

Section 6.

Section 7 (1).

Section 15 (4).

2. (1) Each governing authority shall have a chairperson, as provided for in *section 17*, who may be designated by such title as the governing authority determines. SCH.3

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

3. (1) A member of a governing authority may, for good and valid reason, be removed from office by resolution of the governing authority.

(2) A member of a governing authority may, at any time, resign from office as a member by letter addressed to the chairperson and the resignation shall take effect on the date on which the letter is received.

(3) A member of a governing authority who is absent from all meetings of the governing authority for a period of six consecutive months, unless the absence was due to illness or was approved by the governing authority, shall at the expiration of that period cease to be a member of the governing authority.

(4) A member of a governing authority (including a chairperson appointed under *section 17(3)*) whose term of office expires by effluxion of time shall be eligible for re-appointment.

4. (1) Subject to this Schedule and to *section 21*, the term of office of a member of each succeeding governing authority, other than an *ex officio* member, shall be not less than three years and not more than five years as determined by the governing authority holding office immediately before the appointment of that member.

(2) A member of a governing authority who is a student of the university shall hold office for such period, not exceeding one year, as the governing authority may determine but may be re-appointed for a further period or further periods, on each occasion not exceeding one year.

5. (1) If a member of a governing authority dies, resigns, is removed from office or for any other reason ceases to hold office, the governing authority shall arrange for the filling of the casual vacancy so occasioned as soon as practicable.

(2) A person who becomes a member of a governing authority to fill a casual vacancy shall, subject to this Schedule, hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for other reasons to hold office occasioned the casual vacancy and shall, subject to *paragraph 3(4)*, be eligible for re-appointment.

6. (1) Each governing authority shall, from time to time as the occasion requires, appoint from amongst its members a member (other than the chief officer) to be its deputy-chairperson.

(2) 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 authority.

SCH.3

7. (1) Where a member of a governing authority—

- (a) is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors,
- (b) is sentenced to a term of imprisonment by a court of competent jurisdiction, or
- (c) ceases to be a member of the category of person, as provided for in *section 16*, to which he or she belonged at the time of becoming a member,

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

(2) A person shall not be eligible to be a member of a governing authority if he or she—

- (a) is an undischarged bankrupt,
- (b) within the immediately preceding three years has, under the protection or procedure of a court, made a composition or arrangement with creditors, or
- (c) within the immediately preceding five years, has been sentenced to a term of imprisonment by a court of competent jurisdiction.

8. (1) A member of a governing authority who has an interest in—

- (a) a company (other than a public company of which he or she is not a director or otherwise involved in its management) or concern with which the university proposes to make a contract, or
- (b) a contract which the university proposes to make,

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

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

(3) A member of a governing authority of a university shall at all times act, as a member, in the best interests of the university and shall not act as a representative of any special interest provided that nothing in this paragraph shall restrict a member from representing at meetings of the governing authority the views of those by whom he or she has been elected or to restrict the freedom of expression of that member.

9. The chairperson and members of a governing authority, other than an *ex officio* member who is an employee of the university, shall

be paid out of funds at the disposal of the governing authority such allowances for expenses as the Minister, with the approval of the Minister for Finance, may decide. SCH.3

10. (1) A governing authority shall hold such and so many meetings, and at such times, as the chairperson may determine.

(2) The chairperson shall convene a meeting of the governing authority whenever requested to do so by not less than the number of members which constitute a quorum.

(3) The quorum for a meeting of a governing authority shall be one third of the total number of members, rounded up to the nearest whole number, plus one.

11. At a meeting of a governing authority—

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

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

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

12. Every question at a meeting of a governing authority shall be determined by consensus, but where in the opinion of the chairperson or other person presiding consensus is not possible, the question shall be decided by a majority of the votes of members present and voting on the question and, in the case of an equal division of votes, the chairperson or other person presiding shall have a second or casting vote.

13. Subject to *paragraph 10(3)*, a governing authority may act notwithstanding one or more than one vacancy among its members or any deficiency in the election or appointment of a member which may subsequently be discovered.

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

15. Subject to this Act, the governing authority of a university may make, from time to time, such regulations as it thinks fit for the conduct of the affairs of the university.

FOURTH SCHEDULE

CHIEF OFFICER

Section 24 (3).

1. The chief officer of a university shall, subject to this Act, manage and direct the university 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

SCH.4

governing authority and shall be answerable to the governing authority for the efficient and effective management of the 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 university, including any functions delegated to the chief officer in accordance with *section 25(2)*, 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 authority 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 authority.

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

6. A person who, immediately before the commencement of *Part III*, was employed as the President of a constituent college or as Master of the Recognised College of St. Patrick's College, Maynooth shall, if he or she so consents, be appointed as the chief officer of the corresponding constituent university on that commencement.

7. Unless he or she otherwise resigns, retires or is removed from office, a chief officer shall hold office for a period of 10 years and, in the case of a chief officer to whom *paragraph 6* applies, any period spent as President of a constituent college or as Master of the Recognised College of St. Patrick's College, Maynooth before the commencement of *Part III* shall be reckoned as part of that 10 year period.

FIFTH SCHEDULE

Section 25 (7).

SUPERANNUATION

1. As soon as practicable after the commencement of *Part III* a university shall, subject to *section 25*, prepare and submit to An tÚdarás a scheme or schemes for the granting of pensions, gratuities and other allowances to or in respect of each of its employees (including the chief officer) as it thinks fit consequent on their retirement or death as the case may be.

2. Every scheme shall fix the time and conditions of retirement of all persons to or in respect of whom pensions, gratuities or allowances are payable under the scheme and different times and conditions may be fixed in respect of different classes or persons.

3. A university may at any time prepare and submit to An tÚdarás a scheme amending a scheme previously submitted and approved under this Schedule.

4. A scheme or amended scheme submitted to An tÚdarás under this Schedule shall, if approved by An tÚdarás with the consent of the Minister and the Minister for Finance, be carried out by the university in accordance with its terms.

5. If a dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance

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Universities Act, 1997.

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of a scheme under this Schedule, it shall be submitted to An tÚdarás SCH.5
for determination by An tÚdarás subject to the agreement of the
Minister and the Minister for Finance.

6. No pension, gratuity, allowance or other payment shall be
granted by a university nor shall any other arrangements be entered
into by the university for the provision of a pension, gratuity, allow-
ance or other payment to or in respect of an employee (including
the chief officer) otherwise than in accordance with a scheme under
this Schedule, or with the approval of An tÚdarás, given with the
consent of the Minister and the Minister for Finance.

7. The Minister shall cause every scheme submitted and approved
under this Schedule to be laid before each House of the Oireachtas
as soon as practicable after it is so approved and if either House,
within the next 21 days on which that House has sat after the scheme
is laid before it, passes a resolution annulling the scheme, the scheme
shall be annulled accordingly, but without prejudice to the validity
of anything previously done under the scheme.