

AMENDMENTS TO THE HEA BILL 2022 FROM TRINITY COLLEGE DUBLIN GRADUATE STUDENTS' UNION AND STUDENTS4CHANGE

Currently, on its own website, the aim of the HEA is outlined as follows “to lead the strategic development of the Irish higher education and research system with the objective of creating a coherent system of **diverse institutions with distinct missions**, which is responsive to the social, cultural and economic development of Ireland and its people and supports the achievement of national objectives”¹. In its latest form, the HEA Bill 2022 is a complete antithesis in its opposition to these principles. The aim of the amendments outlined below is to guarantee a retention of democratic diversity and real autonomy within our third-level education sector.

TRADE UNIONS

In page 20, after line 35, insert under a new “(c)” that,

Not less than 2 of the persons appointed under paragraph (a) shall be a trade union representative, one representing academic and the other professional staff.

Explanation: At least 2 of the 12 members on the HEA Board should be trade union representatives, one representing academic and the other professional staff, to give input into the decision-making of the HEA to employees of HEIs.

In page 67, after line 3, insert under a new subsection “(a)” that,

Not less than 2 of the persons appointed to the 5 internal staff positions shall be a trade union representative, one representing academic and the other professional staff.

In page 80, after line 28, insert under a new subsection “(a)” that,

Not less than 2 of the persons elected to the 5 internal staff positions shall be a trade union representative, one representing academic and the other professional staff.

In page 96, after line 14, insert under a new subsection “(a)” that,

Not less than 2 of the persons elected to the 5 internal staff positions shall be a trade union representative, one representing academic and the other professional staff.

Explanation: At least 2 trade union representatives shall be one of the 5 internal staff representatives on governing bodies, one representing academic and the other professional staff, for democracy within HEIs.

¹ https://hea.ie/about-us/data_protection/

STUDENT REPRESENTATION

In page 66, line 35, replace “(e)” with,

four student members appointed by the governing authority.

In page 80, line 25, replace “(e)” with,

four student members appointed by the governing authority.

In page 96, line 11, replace “(e)” with,

four student members appointed by the governing authority.

Explanation: Student representatives should be kept at 4 instead of reduced to 3, in the time of the financial aftershock of a pandemic and a mental health crisis.

In page 66, line 35, replace in “(e)” “*appointed by the governing authority.*” with “*elected by the students through the students’ union.*”.

In page 80, line 25, replace in “(e)” “*appointed by the governing authority.*” with “*elected by the students through the students’ union.*”.

In page 96, line 11, replace in “(e)” “*appointed by the governing authority.*” with “*elected by the students through the students’ union.*”.

Explanation: Student representatives should be elected instead of appointed by the governing authority so as to make sure that they have a democratic mandate, while also guaranteeing that they come from the students’ union.

In page 13, lines 33-34, should be replaced with,

“students’ union” means an independent and self-governing body, elected by the students, that is established for the purpose of promoting the general interests of students of a designated higher education institution, and of representing students, both individually and collectively, in respect of their well-being and academic, disciplinary and other matters arising within, and outside of that institution.

Explanation: Without this definition, there is the danger the Minister or an HEI can recognize any unelected, undemocratic groups which lack the mandate to represent students if it suits them. It also strengthens students’ union autonomy.

EQUALITY IN EDUCATION

In page 58, after line 27, insert a new point “(d)” that,

the policy of the institution relating to the implementation of Universal Design of Learning.

Explanation: The equality statement of HEIs should include progress on Universal Design for Learning (UDL), which, for example, covers hybrid learning, accessibility and other considerations.

In page 58, after line 27, insert a new point “(d)” that,

the policy of the institution relating to the implementation of adequate mental health supports for students and staff.

Explanation: The equality statement of HEIs should include progress on implementing adequate mental health supports for students and staff.

In page 58, after line 27, insert a new point “(d)” that,

the policy of the institution relating to the eradication of academic precarity.

Explanation: The equality statement of HEIs should include progress on eradicating academic precarity.

ACADEMIC FREEDOM

In page 12, after line 14, insert two new definitions as follows,

“academic member” means a member of An tÚdarás who, at the time of his appointment as such member, held an academic post;

“academic post” means a post in an institution of higher education (other than a post as chief officer) all or part of the duties of the holder of which is to teach any students of the institution or to carry out research;

In page 20, after line 35, insert a new point “c)” that,

Not less than four of the persons appointed under paragraph (a) shall be academic members.

Explanation: As per the HEA Bill 1971², at least 36% (7 of 19) of members on the HEA Board should be academic members, so at least 4 of the 12 on the HEA Board should be academic members. This can act as a safeguard against the continued commercialization of HEIs.

COMPOSITION OF HEA BOARD AND THE APPEALS BOARD

In page 21, after line 23, insert a new point “(11)” that,

² <https://www.oireachtas.ie/en/bills/bill/1970/29/>

All appointments to the Board of An tÚdarás by the Minister should follow a Public Appointments Service process.

Explanation: Similar to the Judicial Appointments Advisory Board and other institutions, the HEA Board membership process should go through the Public Appointments Service. This is a complicated amendment. Senator David Norris spoke about it in the Seanad Eireann on the 28th of June 2022³ and we fully support such an alternative system for appointing the members of the HEA Board.

In page 64, after line 33, insert a new point “(10)” that,

All appointments to the appeals board by the Minister should follow a Public Appointments Service process.

Explanation: The composition of the appeals board should also follow the Public Appointments Service process.

LAND USE

Delete p.95 s.107, p.95 s.108, p.108 s.118 and p.17 s.9(s).

Explanation: Guarantee more freedom to universities to acquire or dispose of land at their own discretion. This will only be effective if s.38(2)(h), which allows the CEO of the HEA with the HEA Board’s approval to set any arbitrary funding conditions, is removed as well.

CHECKS AND BALANCES FOR MINISTERIAL POWER OVER HEA

In page 18, replace line 21, with,

“The Minister may give a direction in writing to An tÚdarás, following consultation with the Board of An tÚdarás, for any purpose relating to this Act and concerning—”.

In page 18, replace line 31, with,

“The Minister may issue guidelines in writing to An tÚdarás for the purposes of this Act, following consultation with the Board of An tÚdarás”.

Explanation: For transparency reasons and to act as a check and balance over the power of the Minister, all directions and guidelines must first be discussed with the HEA Board.

TRANSPARENCY

In page 20, after line 19, insert a new “(8)” that,

³ <https://www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/>

Meeting minutes, agendas and documents of the Board of An tÚdarás, save for confidential information, shall be made public.

Explanation: All HEA Board minutes should be published for transparency reasons as a requirement within the legislation, because currently, they have not been published since December 2021.

In page 18, after line 29, insert a new “(5)” that,

All directions issued under paragraph (1) shall be made public.

In page 19, replace lines 6-7, with a new “(4)” that,

All guidelines issued under paragraph (1) shall be made public.

Explanation: All directions and guidelines issued under s.11 and s.12 should be publicly available for transparency reasons.

PUBLIC EDUCATION AND BLUE SKIES RESEARCH

On page 17, delete lines 16-17.

Explanation: Delete “assess the performance of funded bodies with regard to securing value for money in the expenditure of funding provided to them by An tÚdarás under this Act” s.(9)(1)(m) to prevent a consumerist interpretation of education.

CLIMATE

In page 16, after line 9, insert a new point “(h)” that,

to advance sustainability in higher education.

Explanation: The government has declared a climate emergency, so Introduce climate policy as an objective of the HEA under s.8.

UNIVERSITY AUTONOMY

Delete page 38, line 20-21.

Explanation: Remove s.38(2)(h) which allows the CEO of the HEA, with the HEA Board’s approval, to set any other funding conditions. It is excessive that the Minister-appointed HEA Board can set any other funding conditions. Therefore, it should be removed.

On page 38, delete lines 15-16.

On page 125, delete lines 29-39.

On page 126, delete lines 1-11.

Explanation: Remove s.143 which gives power to the HEA, upon direction from the Minister, to issue “guidelines, codes and policies” to HEIs, so as to protect the autonomy of universities.

In page 60, line 24, after “may” insert “, with the approval of the Board,”.

On page 62, delete lines 4-6.

Explanation: The principles of good governance demand that the approval of the Board be required before remedial measures (a), (b), (c), (d), (e), (f), (g), (h) and (i) of subsection (3) of s.67 may be imposed on a designated institution of higher education. Currently, only (a), (b) or (d) of subsection (3) requires Board approval, which this amendment removes and replaces with a general requirement for Board approval for measures in s.66, s.67 and s.68.

On page 61, delete lines 1-17.

In page 61, after line 1, add a new point “(6)” that,

The bringing of an appeal by a designated institution of higher education against a determination of the Chief Executive Officer under subsection (3) to impose a remedial or other measure on the institution shall operate as a stay on the effect of his or her decision, pending the determination of that appeal.

Explanation: Amend s.65(6) by providing that an appeal against a determination of the HEA CEO shall operate as a stay on the effect of his or her decision, pending the determination of that appeal.

On page 38, delete lines 15-16.

On page 126, delete lines 9-11.

In page 126, after line 11, insert a new point “(6)” that,

Where a designated institution of higher education departs from guidelines, codes or policies prepared under subsection (1), the designated institution of higher education will have to explain the reasons for this, but does not have to comply –

- (i) which parts of the guidelines, codes or policies it departs from,*
- (ii) the extent of any such departures,*
- (iii) the reasons for such departure or non-application of the said guidelines, codes or policies.*

Explanation: If s.143 is not removed, it should follow the “comply or explain” principle which allows a university to not follow the HEA-issued “guidelines, codes and policies” provided

that they give an explanation, and this also should not be a condition of funding under s.36 provided an explanation is given, so as to give the sector flexibility.

In page 37, after line 31, insert the following new subsection that,

Nothing in this section shall be construed as permitting an interference with the autonomous capacity of each designated institution of higher education to determine –

- (a) which courses and programmes it develops and maintains, or*
- (b) the number of students that will be accommodated on any course or programme or within each designated institution of higher education.*

Explanation: In order to protect small courses from being cut or merged, and the subsequent layoff of academics as happened in the U.K, in s.37, insert that HEIs should have autonomous capacities to decide which courses and programmes to develop, and to decide on their number of students.

AMENDMENTS SHOULD BE CONSIDERED BY THE GOVERNMENT

I am here to engage in good faith. It will take the time that it takes, and we will work our way through it. I would not be so rude, as a Member of the Lower House, to try to tell the Upper House how to do its business.

- Minister Harris guarantees that all amendments will be considered⁴.

Gisèle Scanlon, President of Trinity College Dublin Graduate Students' Union. +353 86 412 0444, president@tcdgsu.ie

László Molnárfi, Chairperson of Students4Change, +32 470 58 31 74, contact@students4change.eu

⁴ <https://www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/>