

# Updating the Higher Education Authority Act 1971

## Submission by Quality and Qualifications Ireland to the Public Consultation

### Introduction

Quality and Qualifications Ireland (QQI) recognises the need to update the Higher Education Authority Act 1971. We set out below the key issues arising that concern QQI's remit, including changes proposed in the amendments to the Qualifications and Quality Assurance Act 2012. These issues impact on our joint commitment, set out in the *Memorandum of Understanding between the HEA and QQI, 2018-2020*<sup>1</sup>, 'to ensure the coordination and complementarity of our activities in the interests of the higher education sector as a whole and, in turn, the interests of the state and its citizens'.

#### **1. The context for updating the HEA legislation**

The diverse institutional landscape of Ireland's higher education (public higher education institutions, private and independent providers) and the altered policy context should inform the updated legislation on the HEA. The legislation needs to speak to this context and support the medium to long term goals of higher education. The context includes massification/high rates of participation, internationalisation, globalisation in addition to digital and technological change, and issues of accountability, trust and transparency in higher education. An array of international agreements, conventions and processes also shape higher education in Ireland.<sup>2</sup> The dynamic nature of higher education suggests that there will be a need to balance carefully prescriptive and enabling provisions in updated legislation.

QQI believes that the context could usefully be set out in a background paper. This could address questions of quality and performance in higher education which are of public interest. The different purposes of quality assurance (a concern of QQI) and performance (largely a concern of the HEA) can be blurred or misunderstood. Quality is a complex matter – it is difficult to define and to measure. It includes expectations about meeting the needs of students, society and government as well as the effectiveness and performance of higher education institutions and the system.

A background paper could also help clarify the HEA's legislative remit in relation to non-public higher education. This has implications, for example, for generating comprehensive system-wide information and understanding. This also impacts on the capacity of the HEA to fund some system-wide quality improvement initiatives and data collection.

#### **2. The legislation should clearly articulate the role and core functions of the HEA, informed by those provisions that relate to higher education in related legislation including the Qualifications and Quality Assurance Act 2012 and the Amendment Bill, 2018.**

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<sup>1</sup> Memorandum of Understanding between the Higher Education Authority and Quality and Qualifications Ireland 2018-2020. <https://www.qqi.ie/Downloads/QQI%20HEA%20Memo.pdf>

<sup>2</sup> For example, within the European Higher Education Area, European Standards and Guidelines for Quality Assurance, qualifications frameworks and qualification recognition conventions support quality assurance and aim to increase transparency, competitiveness and trust.

The QQI HEA Memorandum of Understanding, shows how the roles of the QQI and HEA intersect. Examples of this are where the outputs of quality assurance e.g. institutional quality reviews, inform the HEA's work on system performance.

QQI promotes shared responsibility for a high-quality education and training system that stimulates transparency and innovation<sup>3</sup>. A clear demarcation of lines of accountability between higher education institutions, QQI, the HEA and the Department of Education and Skills would provide for greater certainty and clarity of expectations. It is important that the legislation does not inhibit collaboration and synergy between the agencies.

**Intersection between the work of the HEA and QQI**

*The role of the HEA, as the statutory funding, planning and policy-development body for the higher education sector is complementary to that of QQI, as the statutory authority for quality assurance and qualifications recognition. Moreover, there is a potentially synergistic relationship between the additional responsibilities with which the HEA is charged in the National Strategy for Higher Education to 2030, in respect of the oversight of the sector and the functions assigned to QQI in the Qualifications and Quality Assurance (Education and Training) Act, 2012*

*...Both organisations are concerned with enhancing the quality, coherence, and performance of the Irish higher education system while upholding the principles of academic freedom and institutional autonomy that are enshrined in State legislation on higher education. Likewise, both aim to minimise the bureaucratic burden placed on higher education institutions while ensuring their full accountability to the State; and both are committed to operating in a transparent manner in partnership with institutions and other stakeholders.*

Memorandum of Understanding between the HEA and QQI 2018-2020

**3. Legislation providing for the registration of higher education institutions should not be inimical to QQI's legislative remit to assess the corporate fitness of providers for the purpose of accessing QQI awards**

The Qualifications and Quality Assurance Act, 2012 provides for QQI to regulate or accredit providers who offer programmes leading to QQI awards (see Appendix attached). The Qualifications and Quality Assurance (Education and Training) (Amendment) Bill 2018<sup>4</sup>, proposes that QQI's regulatory role be strengthened to

- support the introduction of the International Education Mark;

<sup>3</sup> QQI Statement of Strategy 2019-2021, Priority 3, action c (forthcoming)

<sup>4</sup> Qualifications and Quality Assurance (Education and Training) (Amendment) Bill 2018.  
<https://www.oireachtas.ie/en/bills/bill/2018/95/>

- extend the scope of the NFQ to include other awards (underpinned by robust quality assurance)<sup>5</sup>, and
- evaluate the corporate fitness of providers.

It is important that any change to the HEA legislation takes cognisance of these proposed amendments.

#### ***4. The legislation should enable the HEA and QQI to share relevant data, in line with GDPR***

Both the HEA and QQI can better undertake their respective roles by having access to relevant data and information collected by each other, for example in relation to student participation, programme provision and grading. This can generate comprehensive understanding and evidence to inform our work.

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<sup>5</sup> This involves listing awarding bodies – this could impact on HEA work where such awarding bodies also provide higher education and where the HEA seeks to rely on such a list or inclusion of awards in the NFQ as proxies for quality.

## **Appendix**

### ***Note on QQI's legislative functions in quality assurance and regulation as they concern higher education***

#### **Quality Assurance**

As an external quality assurance agency, QQI provides assurance that HEIs have internal quality assurance systems in place and that they are effective. This encompasses the 7 universities, the 14 institutes of technology, any new Technological Universities, the Royal College of Surgeons in Ireland, linked providers (such as Mary Immaculate College which is linked to a designated awarding body, University of Limerick), and approximately 30 other private and independent providers that offer higher education).

#### **Regulation**

QQI regulates the quality of programmes offered by institutions leading to QQI awards. This concerns all private and independent providers who seek QQI higher education awards, higher education institutions and the Institutes of Technology (in practice all IoTs have delegated authority from QQI to make awards up to Level 9 in the National Framework of Qualifications (NFQ))<sup>6</sup>.

In addition, QQI is required to develop and introduce an International Education Mark in relation to international learners. This will be available to higher education institutions (who meet the relevant criteria). A Bill to amend the 2012 Act provides the legislative basis for this.

The Amendment Bill 2018 also extends QQI's regulatory role including in higher education:

*Viz private and independent providers of education:*

- The introduction of a Learner Protection Fund
- The evaluation of the corporate fitness and bona fides of a provider including its capacity to implement quality assurance procedures and related requirements of the Act (e.g. compliance with the statutory code of practice that underpins the International Education Mark).

*Viz listing awarding bodies (other than QQI, a designated awarding body (universities, DIT, RSCI and Technological Universities) for the purposes of including awards in the NFQ*

- QQI will be authorised to list awarding bodies and include their awards in the NFQ. This will allow international awarding bodies, like City and Guilds, professional and private or sectoral awarding bodies to have their awards included in the NFQ, should they so choose. This could include those offering higher education awards. In addition, those providers who offer programmes leading to such awards (i.e. not all awarding bodies offer programmes) will come within the scope of QQI external quality assurance.

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<sup>6</sup> The Bill to amend the 2012 Act provides for the granting of award making powers, with the exception of doctoral awards, to all Institutes of Technology (i.e. that they will have full autonomy to make awards up to this level which places them on an equal footing with universities, DIT and the RCSI). Not that Technological Universities will have award-making powers at all Levels.

*Viz essay mills and cheating services*

QQI will have the power to prosecute those who deliver such services.