



Number 15 of 2022

**Regulation of Providers of Building Works and Miscellaneous Provisions Act
2022**



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**REGULATION OF PROVIDERS OF BUILDING WORKS AND MISCELLANEOUS
PROVISIONS ACT 2022**

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*Regulation of Providers of
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[No. 15.]

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[2022.]

ACTS REFERRED TO

Affordable Housing Act 2021 (No. 25)
Building Control Act 1990 (No. 3)
Building Control Act 2007 (No. 21)
Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 (No. 13)
Companies Act 2014 (No. 38)
Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 (No. 4)
Electricity Regulation Act 1999 (No. 23)
Environmental Protection Agency Act 1992 (No. 7)
Ethics in Public Office Act 1995 (No. 22)
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European Communities Act 1972 (No. 27)
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Fire Services Act 1981 (No. 30)
Housing (Regulation of Approved Housing Bodies) Act 2019 (No. 47)
Land and Conveyancing Law Reform Act 2009 (No. 27)
Legal Services Regulation Act 2015 (No. 65)
Local Government Act 2001 (No. 37)
Nursing Homes Support Scheme Act 2009 (No. 15)
Parent's Leave and Benefit Act 2019 (No. 35)
Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c. 93)
Planning and Development Act 2000 (No. 30)
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Safety, Health and Welfare at Work Act 2005 (No. 10)
Taxes Consolidation Act 1997 (No. 39)
The Institution of Civil Engineers of Ireland (Charter Amendment) Act 1969 (No. 1) (Private)
Waste Management Act 1996 (No. 10)



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REGULATION OF PROVIDERS OF BUILDING WORKS AND MISCELLANEOUS PROVISIONS ACT 2022

An Act to provide for the establishment of a register to be known in the Irish language as *Clár Tionscail Foirgníochta na hÉireann* and in the English language as the Construction Industry Register Ireland; to provide for appointment, by order of the Government, of a body to be the registration body to regulate providers of building works; to provide for determination by the registration body of standards and competence required of providers of building works; to cause any complaints against those providers to be investigated and adjudicated upon; to establish an appeals committee to hear and determine appeals against certain decisions of the registration body; to appoint the registration body to be the competent authority for the purposes of the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017); to amend the Building Control Act 2007; to amend the Nursing Homes Support Scheme Act 2009 by providing for certain rental income of a person who is receiving care services or his or her partner under a tenancy of the principal residence of that person to be assessed at a lower rate than other income of that person; to enable the rate at which such rental income is to be assessed to be reduced or to enable such rental income to be disregarded; to amend the Residential Tenancies Act 2004 by providing for an increase of the notice period for termination of certain tenancies, to require landlords to serve a copy of any notice of termination on the Board, and to enable the Board to assist in providing contact details of tenants to landlords for the purpose of facilitating a reletting offer; to amend the Housing (Regulation of Approved Housing Bodies) Act 2019 by providing for an increase of the period permitted for an application for registration as an approved housing body; to amend the Affordable Housing Act 2021; and to provide for related matters. [5th July, 2022]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022.
- (2) Subject to *subsection (3)*, this Act other than *Parts 11* and *12*, shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) *Part 9* shall come into operation on such day or days as the Minister for Health may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation

2. In this Act—

“Act of 1981” means the Fire Services Act 1981;

“Act of 1990” means the Building Control Act 1990;

“Act of 1999” means the Electricity Regulation Act 1999;

“Act of 2005” means the Safety, Health and Welfare at Work Act 2005;

“Act of 2007” means the Building Control Act 2007;

“Act of 2012” means the Qualifications and Quality Assurance (Education and Training) Act 2012;

“Act of 2014” means the Companies Act 2014;

“appeals committee” means the appeals committee established under *section 24*;

“applicant” means an applicant for registration under *section 34* or, as appropriate, for renewal of registration under *section 36*;

“Board” means the admissions and registration board established under *section 22*;

“building control regulations” means the building control regulations for the time being in force under section 6 of the Act of 1990;

“building regulations” means the building regulations for the time being in force under section 3 of the Act of 1990;

“code of practice” means a code of practice for the time being in operation under *section 20*;

“committee of the Board” means a committee of the Board established under *section 23*;

- “company” means a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act;
- “competence criteria” has the meaning given to it by *section 28*;
- “competent person” has the meaning given to it by *section 30*;
- “complainant” has the meaning given to it by *section 44*;
- “construction” means construction within the meaning of the Act of 1990;
- “division” means a division or, as the case may be in accordance with *section 27(2)*, subdivision of the register;
- “employee”, in relation to a provider of building works, has the same meaning as it has in the Parent’s Leave and Benefit Act 2019;
- “improper conduct” has the meaning given to it by *section 44*;
- “induction course” has the meaning given to it by *section 40*;
- “inspector” means a person appointed under *section 21* to be an inspector;
- “investigation” means an investigation under *section 45*;
- “investigation report” has the meaning given to it by *section 45*;
- “major sanction” has the meaning given to it by *section 49*;
- “material matter” has the meaning given to it by *section 38*;
- “Minister” means the Minister for Housing, Local Government and Heritage;
- “minor sanction” has the meaning given to it by *section 49*;
- “practising barrister” has the same meaning as it has in the Legal Services Regulation Act 2015;
- “practising solicitor” has the same meaning as it has in the Legal Services Regulation Act 2015;
- “prescribed” means prescribed by regulations made by the Minister;
- “Professional Qualifications Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);
- “provider of an education and training programme” means a provider within the meaning of the Act of 2012;
- “provider of building works” shall be construed in accordance with *section 3*;
- “public body” means—
- (a) a Department of State,
 - (b) the Office of the President,
 - (c) the Office of the Attorney General,

- (d) the Office of the Comptroller and Auditor General,
- (e) the Houses of the Oireachtas Commission,
- (f) a local authority within the meaning of the Local Government Act 2001,
- (g) the Health Service Executive, or
- (h) a person, body or organisation established—
 - (i) by or under any enactment (other than the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), or
 - (ii) under the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act, in pursuance of powers conferred by or under another enactment,

and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;

“register” means the register established and maintained under *section 26*;

“registered construction professional” means a person whose name is entered in the register for architects, register for quantity surveyors or register for building surveyors established under Part 3, 4 or 5 respectively of the Building Control Act 2007 or whose name is entered in the register kept by the Institution of Engineers of Ireland under section 7 of The Institution of Civil Engineers of Ireland (Charter Amendment) Act 1969;

“registered person” means a person whose name is entered in the register;

“Registrar” means the person appointed to be the registrar under *section 12*;

“registration body” means a body appointed by order under *section 8*;

“relevant environmental legislation” means the Environmental Protection Agency Act 1992, the Waste Management Act 1996, the Protection of the Environment Act 2003, the European Communities (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011) and the European Union (Waste Directive) Regulations 2020 (S.I. No. 323 of 2020);

“relevant Minister” means—

- (a) in relation to an order under *section 8*, or a nomination referred to in *section 22(5)(a)*, in respect of a public body other than a public body in relation to which the Minister performs functions, the Minister of the Government who performs the functions in relation to the public body,
- (b) in relation to a nomination referred to in *section 22(5)(b)*, in respect of a public body other than a public body in relation to which the Minister for Further and Higher Education, Research, Innovation and Science performs functions, the Minister of the Government who performs the functions in relation to the public body, and
- (c) in relation to a nomination referred to in *section 22(5)(c)*, in respect of a public body other than a public body in relation to which the Minister for Enterprise,

Trade and Employment performs functions, the Minister of the Government who performs the functions in relation to the public body;

“statutory auditor” has the same meaning as it has in the Act of 2014;

“statutory audit firm” has the same meaning as it has in the Act of 2014;

“subdivision” shall be construed in accordance with *section 27(2)*;

“system of continuing professional development” has the meaning given to it by *section 39*;

“works” means works within the meaning of the Act of 1990 to which the building regulations or building control regulations apply.

Provider of building works

3. (1) For the purposes of this Act, any of the following persons is a provider of building works:
- (a) a person who engages in or holds himself, herself or itself out as, for consideration, providing or being prepared to provide works;
 - (b) a person who engages in or holds himself, herself or itself out as, for consideration, providing or being prepared to provide works pursuant to a contract for services;
 - (c) a person who engages in or holds himself, herself or itself out as, for consideration, building and disposing of an interest in new buildings by sale, lease or rent;
 - (d) a person who is connected, within the meaning of section 10 of the Taxes Consolidation Act 1997, with the person referred to in *paragraph (c)* as part of any arrangement in connection with the building and disposal.
- (2) In this Act, a person who only provides works as an employee of a provider of building works is not a provider of building works.

Exemptions

4. A person who carries out the following works is not a provider of building works—
- (a) designated electrical works, so designated under section 9E of the Act of 1999, to a building carried out by a registered electrical contractor, within the meaning of section 9D(6) of the Act of 1999, in accordance with that Act or regulations made under it, or
 - (b) gas works, within the meaning of section 9G of the Act of 1999, to a building carried out by a registered gas installer, within the meaning of section 9F(6) of the Act of 1999, in accordance with that Act or regulations made under it.

Orders and regulations

5. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Where a provision of this Act requires or authorises the Minister to make regulations, such regulations—
- (a) may make different provision for different circumstances or cases, classes or types, and
 - (b) may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (3) Where the Government proposes to make an order under *section 8(2)*, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.
- (4) Every order (other than an order made under *section 1(2)*) and regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses of Minister

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

Giving of notices

7. (1) Subject to *subsections (2) and (3)*, a notice that is required to be given to a person under this Act shall be in writing and addressed to the person concerned by name, and may be so given to the person in one or more than one of the following ways:
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (c) by sending it by post in a prepaid registered letter to the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address;
 - (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice relates to land, by delivering it to a person over the age of 16 years resident or employed at the land, or by affixing it in a conspicuous position at or near the land;

- (e) by electronic means, in a case in which the person has given notice in writing to the person giving the notice concerned of his or her consent to the notice (or notices of a class to which the notice belongs) being given to him or her in that manner.
- (2) Where a notice under this Act is to be given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words “the owner” or, as the case may require, “the occupier”.
- (3) For the purpose of this section, a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

PART 2

REGISTRATION BODY

Appointment of registration body

8. (1) The Minister, where he or she has, in relation to a body referred to in *subsection (4)*, taken into account the matters referred to in *subsection (5)*, may make a request to the Government to make an order under this section.
- (2) The Government, having considered the request of the Minister under *subsection (1)*, may make an order appointing the body referred to in that request to perform the functions conferred on the registration body by or under this Act.
- (3) The body appointed to be the registration body under *subsection (2)* (in this section referred to as the “registration body”), shall—
- (a) stand conferred with and be obliged to perform all the functions conferred on the registration body by or under this Act,
 - (b) in so far as the body stands conferred with and obliged to perform functions under *paragraph (a)*, be known in the Irish language as *Comhlacht Clárúcháin an Tionscail Foirgníochta* and in the English language as the Construction Industry Registration Body,
 - (c) have all such powers as are necessary or expedient for the performance of its functions, and
 - (d) be fair and independent in the performance of its functions.
- (4) One or more than one of the following bodies may be appointed as the registration body under *subsection (2)*:
- (a) a public body that performs functions that relate to the support or promotion of expertise and standards in construction or protection and training of workers in construction;

- (b) a company;
 - (c) a body corporate which is not a company, or an unincorporated body of persons, which has not fewer than 300 members,
- which is not an excluded body, and in the case of a body referred to *paragraph (b) or (c)*, that—
- (i) has among its principal objects the support or promotion of expertise and standards in construction or protection and training of workers in construction, and
 - (ii) has, on the date of the making of the order under *subsection (2)*, been in existence for a continuous period of not less than 10 years.
- (5) Before requesting the Government to make an order under *subsection (2)*, the Minister shall, in order to form an opinion whether a body is capable of performing functions conferred on the registration body under this Act, take into account, in relation to the body, the need for—
- (a) efficiency, effectiveness and economy,
 - (b) sufficient expertise and knowledge relating to standards in construction, including development and monitoring of those standards,
 - (c) sufficient expertise and knowledge relating to training,
 - (d) availability of sufficient capacity and resources for the purpose of performing functions conferred on the registration body under this Act,
 - (e) capacity, as necessary, to comply with policy of the Government or the Minister for Public Expenditure and Reform concerning remuneration, allowances or pension arrangements for the Registrar, staff of the body, Board or appeals committee, and
 - (f) satisfactory corporate governance, accounting and internal audit structures.
- (6) Before requesting the Government to make an order appointing a public body referred to in *subsection (4)(a)*, the Minister shall consult with the Minister for Public Expenditure and Reform and the relevant Minister.
- (7) In this section—
- “excluded body” means any of the following:
- (a) a political party, or a body that promotes a political party or candidate;
 - (b) a body that promotes a political cause;
 - (c) a chamber of commerce;
 - (d) a body that promotes purposes that are—
 - (i) unlawful,
 - (ii) contrary to public morality,

- (iii) contrary to public policy,
- (iv) in support of terrorism or terrorist activities, whether in the State or outside the State, or
- (v) for the benefit of an organisation membership of which is unlawful.

Review and transfer of functions of registration body

9. (1) The Minister shall appoint a person to carry out periodic inspections, reviews and audits in relation to the performance by the registration body of its functions under this Act and to furnish a report to the Minister and the person so appointed shall carry out such inspection and review and furnish such report accordingly. This report shall also be furnished to the Joint Oireachtas Committee on Housing, Local Government and Heritage.
- (2) Where the Minister, having considered a report furnished to him or her under *subsection (1)*, is of the opinion that the registration body is not performing one or more than one of its functions under this Act, he or she may request the Government to make an order under *section 8(2)*.
- (3) The Minister may form the opinion referred to in *subsection (2)* where the registration body has failed to perform statutory functions conferred on the registration body by or under this or any other Act.
- (4) An order under *section 8(2)* requested by the Minister under *subsection (2)*, may include an order appointing a body (in this section referred to as an “appointed registration body”) to perform the functions conferred on the registration body referred to in *subsection (2)* (in this section referred to as a “transferring registration body”) which functions shall stand transferred to the appointed registration body.
- (5) Subject to this section, *section 8* shall apply to an order referred to in *subsection (2)* as it applies to an order made under *section 8*.
- (6) An order referred to in *subsection (2)* may provide for the coming into operation of the order on different days for different purposes or different functions.
- (7) Where the functions of the transferring registration body stand transferred to an appointed registration body, the functions shall no longer be under the direction, control or supervision of the transferring registration body.
- (8) Notwithstanding *subsection (7)* an order referred to in *subsection (2)* may provide that the transferring registration body shall continue to perform any function for a specified period and comply with any direction referred to or contained in the order as may appear to the Government, following a request by the Minister in that behalf, to be necessary or expedient.
- (9) Without prejudice to the generality of *subsection (8)*, an order referred to in *subsection (2)* may, in relation to a function being transferred, provide for matters including—
- (a) transfer of records, data and information,

- (b) transfer of interests in land or other property,
- (c) enforcement and continuation in force of leases, licences or permissions,
- (d) enforcement and continuation in force of contracts, agreements or legal proceedings,
- (e) transfer of employees or employment contracts,
- (f) preparation of final accounts,
- (g) transfer of the register,
- (h) transfer of moneys advanced by the Minister or collected through fees,
- (i) construction of references to the transferring registration body as references to the appointed registration body, including references in respect of a designation under *section 64* or *65*,
- (j) arrangements concerning the continued performance by the transferring registration body, the Board or committees of the Board of that registration body and the Registrar and an inspector appointed by that body, of particular functions in so far as they relate to matters commenced but not completed before the coming into operation of the order referred to in *subsection (2)*, and
- (k) such incidental, supplementary and consequential provisions, including concerning remuneration, allowances or pension arrangements for the Registrar, staff of the body, Board or appeals committee, as appear to the Government to be necessary or expedient.

Certain obligations and functions of registration body

10. (1) The registration body shall—

- (a) assess resources required by the registration body, the Board and the appeals committee for the purposes of performing their respective functions under this Act,
- (b) on receipt of a request in that behalf from the Minister, furnish to the Minister and to any other persons specified in the request any information specified in the request with respect to the performance of functions by the registration body,
- (c) on receipt of a request in that behalf from the Minister, for the purposes of determining the supports required of the registration body by the Board and the appeals committee, furnish to the Minister and to any other persons specified in the request any information specified in the request with respect to the performance by the Board and the appeals committee of their respective functions under this Act,
- (d) keep all proper and usual accounts of moneys received by the body under *section 15* or *17* and expenditure of such moneys incurred by it, the Board and the appeals committee in the performance of their respective functions under this Act, and

- (e) furnish an auditor's report to the Minister of an audit of accounts of the registration body, the Board and the appeals committee when requested to do so by the Minister.
- (2) Where the Minister is of the opinion that it is required for the improvement of standards in the provision of works, dissemination of information relating to works to providers of building works and the public or regulation of providers of building works, he or she may by order—
 - (a) confer on the registration body such additional functions connected with the functions conferred on it by this Act or any order under this section as he or she determines, subject to such conditions (if any) as may be specified in the order, and
 - (b) make such provision as the Minister considers necessary or expedient in respect of matters ancillary to or arising out of any of the functions referred to in *paragraph (a)*.

General directive as to policy

- 11.** (1) The Minister, having regard to the matters specified in *subsection (2)*, may issue a general directive as to policy (in this section referred to as a “directive”) to the registration body or the Board as the Minister considers appropriate in relation to—
- (a) a review of the register and provision of a report by the Board under *section 27*, or
 - (b) assessment by the Board under *section 29*, including assessment in relation to a division of the register in priority to an assessment in relation to another division of the register.
- (2) The Minister shall have regard—
- (a) when issuing a directive under *subsection (1)(a)*, to the matters referred to in *section 27(4)*, and
 - (b) when issuing a directive under *subsection (1)(b)*, to the matters referred to in *section 27(4)* and to the need for the orderly and timely establishment of competence criteria and the level of qualification, practical experience or both required to fulfil the competence criteria for the purposes of the correct operation of the register.
- (3) The Minister may amend or revoke a directive issued under *subsection (1)*.
- (4) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to a particular application for registration or particular complaint or review before the Registrar or Board or appeal before the appeals committee.
- (5) The Minister shall, as soon as practicable after issuing a directive under *subsection (1)*, or making an amendment or revocation under *subsection (3)*, cause a copy of the

directive, amendment or revocation to be laid before each House of the Oireachtas and sent to the chairperson of the Board.

- (6) A directive issued under *subsection (1)* or an amendment or revocation made under *subsection (3)* shall, as soon as practicable after it is issued, be published in *Iris Oifigiúil*.

Registrar

12. (1) The registration body shall appoint a person to be the Registrar to be responsible for keeping the register and for performing the functions conferred on the Registrar by or under this Act.
- (2) The registration body shall, subject to *section 14*, determine the terms and conditions of employment (including terms and conditions relating to remuneration, pensions and allowances for expenses) of the Registrar.
- (3) The Registrar shall ensure that information entered in the register is up to date and shall publish the register on a website maintained by or on behalf of the Registrar.

Staff of registration body

13. (1) The registration body may appoint persons to be the staff of the body and may determine their duties.
- (2) The registration body, shall determine, subject to *section 14*—
- (a) the terms and conditions of employment (including terms and conditions relating to remuneration, pensions and allowances for expenses) of staff appointed under this section, and
- (b) the number of staff who may be appointed.

Remuneration and expenses

14. There shall be paid to the Registrar, staff of the body, chairpersons and other members of the Board, committees of the Board and the appeals committee by the registration body such remuneration, allowances for expenses and, in the case of the Registrar and staff of the body, payment of contributions to pension arrangements, as the registration body, or where the registration body is a body referred to in *paragraph (a)* of *section 8(4)* the registration body with the consent of the Minister and the Minister for Public Expenditure and Reform, may determine and payment of such remuneration and allowances shall be made from funds at their disposal in accordance with *section 15(1)* of the registration body.

Funding for registration body

15. (1) The registration body shall not be required to provide funds from its resources other than those provided to it under *subsection (2)* and *section 17* to defray expenses in respect of the performance of the functions, conferred on the body, the Board, a

committee of the Board or the appeals committee by or under this Act and the carrying out of activities or provision of services by them under this Act.

- (2) There may, subject to such conditions if any as the Minister thinks proper, be paid to the registration body in each financial year out of moneys provided by the Oireachtas, a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure and Reform, and after consultation with the registration body in relation to its programme of expenditure for that year, may fix.

Accounts and audits

16. (1) The registration body shall keep in such form as may be approved by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts and records of moneys received and expended by the Body.
- (2) The registration body shall, as appropriate—
- (a) submit, not later than 4 months after the end of the accounting period to which the accounts relate, its accounts to the Comptroller and Auditor General,
 - (b) have appointed to it by the Minister a statutory auditor or statutory audit firm to be the statutory auditor of the registration body for the purposes of and in accordance with the Act of 2014, or
 - (c) have appointed to it by the Minister an auditor or audit firm to perform, in relation to the registration body, functions of like effect to the functions of a statutory auditor or statutory audit firm and the Act of 2014 shall apply, subject to any necessary modifications, to that appointment.
- (3) Where *subsection (2)(a)* applies to the accounts of the registration body, within one month of the Comptroller and Auditor General issuing an audit certificate for the accounts of the registration body, a copy of—
- (a) the accounts, and
 - (b) the report of the Comptroller and Auditor General on the accounts,
- shall be presented to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.
- (4) Where *subsection (2)(b)* or *(c)* applies to the accounts of the registration body, the report of the statutory auditor or auditor, as the case may be, shall be presented to the Minister by the body not more than one month after the report of the statutory auditor or auditor is certified.
- (5) The registration body shall publish a copy of its accounts on a website maintained by or on behalf of the body as soon as practicable after *subsection (3)* or, as the case may be *subsection (4)*, has been complied with in respect of the accounts.

Registration body may charge and recover fees

17. (1) The registration body shall specify fees to be charged and paid to the body in respect of the performance of functions conferred on the body, the Board, a committee of the Board and the appeals committee by or under this Act and the carrying out of activities and provision of services by any of them under this Act.
- (2) Without prejudice to the generality of *subsection (1)*, the registration body shall specify fees to be fixed at a level calculated to produce an annual amount which is sufficient to discharge the capital outlay, salaries and remuneration, and any other expenses of the body, the Board, a committee of the Board and the appeals committee in the performance of functions, carrying out of activities and provision of services by any of them under this Act.
- (3) The Minister may, with the consent of the Minister for Public Expenditure and Reform, prescribe matters to be taken into account by the registration body in calculating—
- (a) when, in relation to a division, fees may be specified and charged, and
- (b) different fees to be specified and charged in respect of different divisions.
- (4) The registration body shall not specify fees under this section unless the body has consulted with and obtained the consent of the Minister.
- (5) Without prejudice to the generality of *subsection (1)*, the registration body's power to specify fees includes the power to provide for exemptions from the payment of fees or waiving, remitting or refunding fees (in whole or in part), in different circumstances or classes of circumstances or in different cases or classes of cases.
- (6) The registration body may recover as a simple contract debt in any court of competent jurisdiction, from the person by whom the fee is payable, any amount due and owing to the registration body in respect of a fee charged under this section.
- (7) Fees specified under this section shall be published by the registration body on a website maintained by or on behalf of the body.
- (8) This section shall apply to any fees required under this Act to be specified by the registration body.

Registration body may seek assistance and make rules

18. (1) The registration body may arrange with any person to assist it, the Board or a committee of the Board, in the proper discharge of its functions.
- (2) The registration body shall not make an arrangement referred to in *subsection (1)* in respect of the discharge of the functions conferred on the appeals committee under *section 50*.
- (3) The registration body may make rules for facilitating and discharging its functions and the functions of the Board or a committee of the Board.

Reports

- 19.** (1) The registration body shall, not later than 30 June in each year, prepare and furnish a report (in this section referred to as the “annual report”) to the Minister on the performance of its functions and the functions of the Board and the appeals committee in the previous year.
- (2) The Minister shall, as soon as practicable, cause copies of the annual report to be laid before each House of the Oireachtas.
- (3) The annual report shall be in such form and shall include such information in respect of such matters as the registration body shall think fit or as the Minister may direct.
- (4) The registration body may prepare and furnish such other reports to the Minister on the performance of its functions as it thinks fit.
- (5) The registration body shall give to the Minister such other information as the Minister may require in respect of—
- (a) the performance by the registration body, Board and the appeals committee of their functions and their policies in respect of such performance,
- (b) any document or account prepared by them, or
- (c) the annual report or any report referred to in *subsection (4)*.
- (6) For the purposes of *subsection (1)*, the period beginning on the date of an order under *section 8(2)* and ending on the following 31 December shall be deemed to be a previous year referred to in *subsection (1)*.
- (7) If, under *subsection (1)* and, if appropriate, *subsection (6)*, the first annual report would relate to a period of less than 6 months, that report shall notwithstanding those subsections, relate to the activities of the registration body during that period and the financial year of the registration body immediately following that period and the registration body shall prepare and furnish to the Minister the first annual report as soon as may be, but not later than 6 months after, the end of that financial year.
- (8) The registration body shall publish, including on a website maintained by or on behalf of the body, its annual report in such form as it thinks fit as soon as practicable after *subsection (2)* has been complied with in respect of the report.
- (9) The registration body may publish such other reports on matters related to its activities and functions as it may from time to time consider relevant and appropriate.

Code of practice

- 20.** (1) For the purpose of the continued improvement in the professional conduct of providers of building works, the registration body may, and if so requested by the Minister shall prepare and submit to the Minister for approval, a code of practice.
- (2) A code of practice referred to in *subsection (1)* may include, as respects a provider of building works, provision in relation to any of the following:
- (a) advertising of services;

- (b) proper conduct of tenders;
 - (c) provision of quality customer service;
 - (d) keeping of records;
 - (e) continuing professional development;
 - (f) such other matters as appear to the registration body or the Minister to be necessary for the purposes of *Part 4* or *5*.
- (3) A code of practice prepared under this section shall be approved by the Minister before it comes into operation.
- (4) Before approving a code of practice under this section, the Minister shall—
- (a) publish a notice on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage and in at least one daily newspaper circulating generally in the State—
 - (i) indicating that the registration body proposes to publish a code under this section,
 - (ii) indicating that a draft of the code is available for inspection on that website for a period specified in the notice (being not less than 30 days beginning on the date of the publication of the notice in the newspaper), and
 - (iii) stating that submissions in relation to the draft code may be made in writing to the registration body before a date specified in the notice (which shall be not less than 60 days beginning on the date of the publication of the notice in the newspaper),and
 - (b) have regard to any submissions received pursuant to *paragraph (a)(iii)*.
- (5) Where the registration body prepares and the Minister approves a code of practice under this section, the Minister shall cause a notice of the preparation and approval to be published in *Iris Oifigiúil* and the notice shall specify the date on which the code shall come into operation.
- (6) Subject to *subsection (7)*, the registration body or the Minister may—
- (a) amend or revoke a code of practice prepared or approved under this section, or
 - (b) withdraw approval in respect of any code of practice previously approved under this section.
- (7) The requirements of *subsections (1)* and *(5)* shall, with all necessary modifications, apply to a code of practice that the Minister intends to amend or revoke or in relation to which the Minister intends to withdraw his or her approval.
- (8) Where the registration body or the Minister amends or revokes, or the Minister withdraws his or her approval in respect of, a code of practice under this section, the

Minister shall cause a notice to that effect to be published in *Iris Oifigiúil* specifying—

- (a) the code to which the amendment, revocation or withdrawal of approval, as the case may be, relates,
 - (b) whether the code is to be amended or revoked or whether approval in relation to the code is to be withdrawn,
 - (c) if the code is to be amended, particulars of the amendment, and
 - (d) the date from which the amendment, revocation or withdrawal of approval, as the case may be, shall come into operation.
- (9) The code of practice or any amendment, revocation or notice of withdrawal of the code shall on and from the date of its coming into operation be published on the website of the registration body.
- (10) In this section “code of practice” includes part of a code of practice.

Inspectors

21. (1) For the purposes of *Part 6* the registration body may appoint—
- (a) such members of its staff as it thinks fit to be inspectors for such period and subject to such terms as the Board may determine, and
 - (b) such other persons as it thinks fit to be inspectors for such period and subject to such terms (including terms as to remuneration and allowances for expenses) as the registration body may determine.
- (2) An inspector shall be independent in the performance of his or her functions.
- (3) The registration body shall not rely on any contract of service or contract for services with a person appointed under this section in any way that may affect the person’s independence in the performance of any function or power conferred on an inspector under *Part 6*.
- (4) Subject to *subsection (3)*, the registration body may revoke the appointment of an inspector appointed under *subsection (1)* whether or not the appointment was for a fixed period.
- (5) An appointment under *subsection (1)* ceases—
- (a) if it is revoked under *subsection (4)*,
 - (b) if it is for a fixed period, on the expiry of that period, or
 - (c) if the person appointed is a member of staff of the registration body, on the person ceasing to be a member of staff.
- (6) Nothing in *subsection (5)* shall be construed so as to prevent the registration body from reappointing as an inspector a person to whom *subsection (5)* relates.

- (7) An inspector shall be furnished with a certificate of his or her appointment by the registration body.
- (8) When exercising a power conferred on an inspector under *Part 6* the inspector shall, on request by any person thereby affected, produce the certificate or a copy of it and a form of personal identification to that person for inspection.

PART 3

ADMISSIONS AND REGISTRATION BOARD AND APPEALS COMMITTEE

Admissions and registration board

- 22.** (1) The registration body shall establish an admissions and registration board (in this Act referred to as the “Board”).
- (2) The Board shall consist of a chairperson and 10 ordinary members appointed by the Minister.
 - (3) The chairperson of the Board shall be—
 - (a) a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court,
 - (b) a practising solicitor,
 - (c) a practising barrister, or
 - (d) a registered construction professional.
 - (4) When appointing a person to be a member of the Board, the Minister shall be satisfied that the person has knowledge of, and expertise in relation to, one or more of the following:
 - (a) the provision of works;
 - (b) building control regulations;
 - (c) building regulations;
 - (d) construction skills, education and training;
 - (e) the needs of consumers of construction services;
 - (f) construction specifications and standards;
 - (g) the maintenance of standards in professions regulated by a statutory body;
 - (h) dealing with complaints against members of professions regulated by a statutory body.
 - (5) Of the persons appointed to be members of the Board—
 - (a) 2 shall be nominated by the Minister from among officers of the Minister or from members of staff of a public body referred to in *paragraph (f)* or, following

- consultation with the relevant Minister, *paragraph (g) or (h)* of the definition of public body,
- (b) 1 shall be nominated by the Minister for Further and Higher Education, Research, Innovation and Science from among officers of that Minister or from members of staff of a public body referred to in *paragraph (f), (g) or (h)* of the definition of public body following consultation with the relevant Minister,
 - (c) 1 shall be nominated by the Minister for Enterprise, Trade and Employment from among officers of that Minister or from members of staff of a public body referred to in *paragraph (f), (g) or (h)* of the definition of public body following consultation with the relevant Minister,
 - (d) 1 shall be nominated by the Irish Congress of Trade Unions,
 - (e) 3 shall be nominated by the registration body, any of whom may be registered persons, but no more than one of whom shall be registered in any one division, and
 - (f) 2 shall be appointed by the Minister on the recommendation of the Chief Executive of the Public Appointments Service after a competition for that purpose under section 47 of the Public Service Management (Recruitment and Appointments) Act 2004 has been held and the Chief Executive is satisfied that the nominees meet the criteria specified in *subsection (4)*.
- (6) When nominating persons for appointment under this section, a Minister or nominating body referred to in *subsection (5)* shall be satisfied that his or her or its nominees meet one or more of the criteria specified in *subsection (4)*.
 - (7) The Minister shall, in so far as practicable, ensure an appropriate balance between men and women in the composition of the Board.
 - (8) The Board shall be independent in the performance of its functions.
 - (9) The Minister shall direct the registration body to provide such support of an administrative nature as the Minister considers necessary to enable the Board to perform its functions and the registration body shall comply with a direction under this subsection.
 - (10) The Board shall furnish to the registration body information concerning the performance of the functions of the Board requested by the registration body to enable that body to determine the administrative supports required by the Board.

Committees of Board

- 23.** (1) The Board may establish one or more than one committee to assist and advise it in relation to any of its functions (in this section referred to as a “committee of the Board”).
- (2) The Board may delegate to a committee of the Board any of the Board’s functions which, in its opinion, can be better or more conveniently performed by the committee.

- (3) The Board may determine the terms of reference for a committee of the Board and may regulate the procedure and business of that committee.
- (4) The members of a committee of the Board shall be appointed by the Board.
- (5) A committee established under this section—
 - (a) shall consist of such number of members as the Board thinks proper,
 - (b) may include a person who is not a member of the registration body, the Board or another committee established under this section, and
 - (c) shall not include a person who is for the time being a member of the appeals committee.
- (6) A member of a committee of the Board who fails to perform his or her functions may be removed at any time for stated reasons by the Board.
- (7) The Board may in relation to a committee of the Board—
 - (a) appoint a person to be chairperson of the committee, and
 - (b) at any time dissolve the committee.
- (8) The acts of a committee of the Board shall be subject to confirmation by the Board.

Appeals committee

- 24.** (1) There shall stand established, on the coming into operation of this section, an appeals committee to determine appeals provided for in this Act.
- (2) The appeals committee shall consist of a chairperson and at least 4 ordinary members appointed by the Minister, none of whom shall be a member of the Board or a committee of the Board.
 - (3) The chairperson of the appeals committee shall be—
 - (a) a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court,
 - (b) a practising solicitor,
 - (c) a practising barrister, or
 - (d) a registered construction professional.
 - (4) When appointing a person to be a member of the appeals committee, the Minister shall be satisfied that the person has knowledge of, and expertise in relation to, one or more of the following:
 - (a) the provision of works;
 - (b) building control regulations;
 - (c) building regulations;
 - (d) construction skills, education and training;

- (e) the needs of consumers of construction services;
 - (f) construction specifications and standards;
 - (g) the maintenance of standards in professions regulated by a statutory body;
 - (h) dealing with complaints against members of professions regulated by a statutory body.
- (5) The ordinary members of the appeals committee shall be appointed by the Minister on the recommendation of the Chief Executive of the Public Appointments Service after a competition for that purpose under section 47 of the Public Service Management (Recruitment and Appointments) Act 2004 has been held and the Chief Executive is satisfied that the nominees meet the criteria specified in *subsection (4)*.
- (6) The Minister shall, in so far as practicable, ensure an appropriate balance between men and women in the composition of the appeals committee.
- (7) The chairperson of the appeals committee may as he or she considers appropriate direct the hearing of appeals by divisions of the committee, the assignment of appeals to those divisions, and the appointment of ordinary members of the committee to be chairpersons of the divisions concerned.
- (8) A division of the appeals committee shall comprise at least 2 persons being the chairperson of the appeals committee or a chairperson of a division appointed under *subsection (7)* and an ordinary member.
- (9) Where a division of the appeals committee is composed of 2 persons and the appeals committee cannot reach a unanimous determination of an appeal, the appeal shall be considered by a division composed of 3 other persons.
- (10) The appeals committee shall be independent in the performance of its functions.
- (11) The appeals committee shall, subject to *section 50*, make rules in relation to the conduct of appeals falling to be determined by it as it considers appropriate and shall publish those rules on a website maintained by or on behalf of the appeals committee including rules relating to—
- (a) requirements to give notice of an appeal,
 - (b) parties to an appeal,
 - (c) requirements for notification of an appeal and sittings of the appeals committee,
 - (d) documentation to be supplied to the appeals committee by the registration body,
 - (e) ability of the appeals committee to require submission by a person of information or documentation that is necessary for the determination of an appeal,
 - (f) dismissal of an appeal which in the opinion of the appeals committee is vexatious, frivolous, an abuse of process or without substance or foundation,
 - (g) advising the appellant of the appellant's right—
 - (i) to be present at the appeals committee's sitting, and

- (ii) to present his or her case in person or, at his or her own expense, through a legal representative,
- (h) procedures for the hearing of an appeal,
 - (i) the examination of witnesses,
 - (j) determination by the appeals committee as to whether or not evidence should be given under oath,
 - (k) time limits to apply to the making and conduct of appeals,
 - (l) submissions to the appeals committee by parties to an appeal or other persons,
 - (m) procedures for the consolidation and hearing of two or more than two appeals together,
 - (n) procedures for delayed or abandoned appeals,
 - (o) procedures for the separation of appeals,
 - (p) procedures for sittings of the appeals committee otherwise than in public,
 - (q) procedures for imposing restrictions in relation to disclosure, during the hearing of an appeal, publication or reporting of a matter the appeals committee considers to be commercially sensitive, and
 - (r) recording of proceedings.
- (12) An appeal shall be considered in public unless the chairperson of the appeals committee, or division of the committee hearing the appeal, as the case may be, of his or her own motion or on an application by or on behalf of a party to the appeal, determines that, due to the existence of special circumstances, the appeal (or part of it) should be conducted otherwise than in public.
- (13) The Minister shall direct the registration body to provide such support of an administrative nature as the Minister considers necessary to enable the appeals committee to perform its functions and the registration body shall comply with a direction under this subsection.
- (14) The appeals committee shall furnish to the registration body information concerning the performance of the functions of the appeals committee requested by the registration body to enable that body to determine the administrative supports required by the appeals committee.

Miscellaneous provisions concerning Board and appeals committee

25. The provisions of *Schedule 2* shall have effect in relation to the Board and the appeals committee.

PART 4

REGISTER AND COMPETENCE CRITERIA

Register

26. (1) The registration body shall, as soon as practicable after the commencement of this section, establish and maintain for the purposes of this Act a register of providers of building works (in this Act referred to as the “register”) to be known in the Irish language as *Clár Tionscail Foirgníochta na hÉireann* and in the English language as the Construction Industry Register Ireland.
- (2) The register shall be maintained in such form as the registration body thinks fit, including electronic form, and shall contain, in relation to each registered person—
- (a) the names and contact details and such other identifying particulars (including a registration number) as the registration body considers appropriate,
 - (b) the names, in relation to a registered person that is a body corporate of the body corporate and of all persons who are the directors, managers, secretary or other officers of the body corporate or who are identified in the application concerned as acting in such capacity and, where the affairs of the body corporate are managed by its members, each person who is identified by the applicant in the application as performing functions of management in relation to the body as if he or she were a director or manager of the body corporate,
 - (c) the name referred to in *section 42(b)* under which the registered person, with the consent of the registration body, acts as a provider of building works,
 - (d) the division in which the name of the registered person is entered,
 - (e) in relation to each division in which the registered person’s name is entered, the name or names of the competent person, or as the case may be, competent persons, identified by the registered person as fulfilling, on behalf of the registered person, the competence criteria,
 - (f) details of any convictions or sanctions (other than a spent conviction within the meaning of section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016) imposed either within the State, or outside the State for an offence consisting of acts or omissions that, if done or made within the State, would constitute an offence, under the Act of 1981, section 17 of the Act of 1990, the Act of 2005, or the relevant environmental legislation, within the previous 10 years,
 - (g) details of any order under section 8 or 12 of the Act of 1990, within the previous 10 years, and
 - (h) such other information (including in relation to suspension of registration) as the registration body considers appropriate.
- (3) The registration body shall make the register available for inspection free of charge by members of the public—

- (a) in electronic form at its principal office during normal working hours, and
 - (b) on a website maintained by or on behalf of the registration body in such a manner that the section of the website which contains the register is readily accessible by members of the public.
- (4) The registration body shall provide a copy of an entry in the register to any person on request and on payment of a fee in respect of the provision of the copy as may be specified by the body.
- (5) In any legal proceedings, a certificate signed by the chairperson or a member of the Board, the Registrar or a member of the staff of the registration body authorised by the chairperson of the Board to give a certificate under this subsection, stating that the name of a person—
- (a) is entered in the register or in a specified division,
 - (b) is not entered in the register or in a specified division,
 - (c) was at a specified date or during a specified period entered in the register or in a specified division,
 - (d) was not, at a specified date or during a specified period, entered in the register or in a specified division or was suspended from the register at that time, or
 - (e) has never been entered in the register,
- is evidence of the matter referred to in *paragraph (a), (b), (c), (d) or (e)* (as the case may be) and is taken to have been signed by the person purporting to have signed it, unless the contrary is shown.
- (6) A registered person shall, in relation to the entry in the register relating to the registered person, give notice to the registration body of—
- (a) any error that the person knows of in the entry, and
 - (b) any change in circumstances that is likely to have a bearing on the accuracy of the entry,
- as soon as may be after the person becomes aware of that error or change in circumstances and the registration body shall consider the notice and make any alteration to the register as it considers necessary.
- (7) Where the registration body makes an alteration under *subsection (6)*, the registration body shall, as soon as practicable thereafter, give notice of it to the registered person concerned.

Divisions of register

27. (1) The register shall be divided into different divisions for each of the different categories of works prescribed by the Minister following consideration by the Minister of a recommendation of the Board.

- (2) A division of the register may be divided into subdivisions and a reference in this Act to a division shall be construed as including, as necessary, a reference to a subdivision.
- (3) The Board shall, from time to time and at least every 5 years carry out a review of the register and prepare a report for the Minister and where the Board is of the view that any division ought to be added to, altered or removed from the register, it shall include in the report a recommendation to that effect and shall give reasons for the view.
- (4) The Minister, in prescribing the divisions of the register under *subsection (1)*, and the Board, in making a recommendation under *subsection (1)* or *subsection (3)*, shall take into account the following:
- (a) the design and construction of buildings;
 - (b) material alterations or extensions of buildings;
 - (c) the provision of services, fitting and equipment in, or in connection with, buildings;
 - (d) works not referred to in *paragraph (b)* or *(c)*;
 - (e) the variety of construction methods required to carry out works;
 - (f) the desirability of having a competent construction industry;
 - (g) a deficiency, inaccuracy or inadequacy of the existing divisions of the register;
 - (h) advancement in building techniques;
 - (i) technological advancements in works;
 - (j) an alteration of the statutory requirements, including requirements referred to in *paragraphs (a) to (f)* of *section 28(2)* relating to works;
 - (k) an alteration of any industry standards including standards referred to in *paragraph (h)* of *section 28(2)* relating to works.
- (5) On receipt of a recommendation under *subsection (3)*, the Minister may prescribe divisions of works to be added to, altered or removed from the register where, having taken into account the matters specified in *subsection (4)*, he or she forms the view that such amendment ought to be made.
- (6) Before prescribing a division under *subsection (1)* or an addition, alteration to a division or removal of a division under *subsection (5)*, the Minister shall consult with—
- (a) the Minister of the Government who performs functions in relation to construction or innovation, and
 - (b) the registration body.

- (7) Before making a recommendation under *subsection (3)*, the Board shall consult with such representatives of registered construction professionals and such other persons or bodies as the Board considers appropriate.

Competence criteria

28. (1) The Board shall determine the criteria of specific knowledge, skill and expertise required of a provider of building works to carry out works in order to become, or as the case may be, remain eligible for registration in each division (in this section referred to as the “competence criteria”).
- (2) A determination under *subsection (1)* shall take into account the requirements of each of the following as they apply to each category of works for which a division has been prescribed under *section 27(1)*:
- (a) the building regulations, including any technical guidance documents for the time being published by the Minister in accordance with those regulations;
 - (b) the building control regulations, including the code known as the Code of Practice for Inspecting and Certifying Buildings and Works for the time being published by the Minister in accordance with those regulations;
 - (c) the Act of 2005;
 - (d) regulations relating to construction for the time being in force under section 58 of the Act of 2005;
 - (e) the Planning and Development Act 2000;
 - (f) the relevant environmental legislation;
 - (g) construction products regulations;
 - (h) specifications, standard specifications, Irish standard specifications or other document published for the time being by the National Standards Authority of Ireland and other standard specifications relevant to the provision of works.
- (3) A determination of the Board under *subsection (1)* shall be submitted to the Minister for approval.
- (4) The Minister may approve, or approve subject to modifications, the competence criteria and, when the competence criteria have been so approved, they shall apply and have effect.
- (5) Subject to *section 11*, the Board shall determine the order in which a determination under *subsection (1)* is carried out in relation to each division.
- (6) A determination under *subsection (1)* shall be carried in relation to each division at intervals not exceeding 5 years following the first determination and, subject to *subsections (3) and (4)*, the competence criteria may be amended following any such determination.

- (7) The competence criteria shall be made available to members of the public by the registration body on a website maintained by or on behalf of the body.
- (8) For the purpose of performing their respective functions under this section, the Minister or the Board may consult with—
 - (a) Quality and Qualifications Ireland,
 - (b) An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS),
 - (c) National Standards Authority of Ireland,
 - (d) the Higher Education Authority,
 - (e) Skillnet Ireland,
 - (f) Sustainable Energy Authority of Ireland,
 - (g) a provider of an education and training programme,
 - (h) representatives of registered construction professionals, and
 - (i) such other persons or bodies as the Board or Minister sees fit.

Eligibility for registration

- 29.** (1) The Board shall carry out an assessment to determine the level of qualification or practical experience or combination of both by which a person can fulfil the competence criteria for each division in order to be eligible for registration.
- (2) An assessment under *subsection (1)* shall, in relation to each category of works for which a division has been prescribed under *section 27(1)*, include—
- (a) a determination of the education and training programmes available, which, if completed by a person, would enable the person to fulfil the competence criteria required for entry of the person’s name in the division, based on—
 - (i) identifying each education and training programme offered by a designated awarding body or a body subject to validation or which is an award included within the National Framework of Qualifications, which is relevant to the works (in this section referred to as a “relevant programme”),
 - (ii) evaluating the curriculum of each relevant programme, and
 - (iii) evaluating the adequacy of the learning outcomes of each relevant programme against the competence criteria,and
 - (b) a determination of the level of practical experience, which, if completed by a person, would enable the person to fulfil the competence criteria required for entry of the person’s name in the division, based on—
 - (i) an evaluation of the level of complexity of the works,
 - (ii) an evaluation of the degree of specialisation of the works,

- (iii) consideration of any relevant programme identified as fulfilling the competence criteria under *paragraph (a)*, and how knowledge could be acquired in practice over a period of time by completion of a sufficient quantity of works,
 - (iv) analysis of the level of risk to the health and safety of the individuals providing the works,
 - (v) analysis of the level of risk to the health and safety of individuals if works are not carried out correctly, and
 - (vi) an evaluation of the level of financial risk to consumers if works are not carried out correctly.
- (3) Following completion of an assessment under *subsection (1)*, the Board shall make a recommendation, which recommendation shall be accompanied by a report giving reasons for the recommendation, to the Minister in relation to the following for each division:
- (a) the education and training programmes offered that enable a person to fulfil the competence criteria;
 - (b) the level of practical experience that enables a person to fulfil the competence criteria;
 - (c) where appropriate, how the competence criteria could be met through a combination of education and training programmes and practical experience.
- (4) Following receipt of a recommendation under *subsection (3)* and subject to *section 59*, the Minister shall prescribe required qualifications or a level of practical experience or combination of both for registration in each division where he or she is satisfied that the relevant programme associated with such qualification, or the skills acquired in the course of such practical experience, or both, enable a person to fulfil the competence criteria for each division.
- (5) Where, in the course of an assessment under *subsection (1)*, the Board does not identify a relevant programme under *subsection (2)(a)(i)* in respect of a division, the Board shall proceed to make a determination under *subsection (2)(b)* in respect of the division.
- (6) Where, in the course of an assessment under *subsection (1)*, the Board, having identified a relevant programme under *subsection (2)(a)(i)* forms the view that the relevant programme would not, if completed by a provider of building works, fully satisfy the competence criteria required for entry of a person's name in a division, shall determine how the criteria could be met through a combination of education and training programmes and practical experience and such determination shall be based upon consideration of the matters referred to in *paragraphs (a) and (b) of subsection (2)*.
- (7) An assessment under *subsection (1)* shall be carried out at the request of the Minister and at intervals not exceeding 5 years following the first assessment.

- (8) Nothing in this section shall operate to prevent the Board from considering at any time in addition to qualifications to be determined or prescribed under this section, an education or training programme not referred to in *subsection (2)(a)(i)* that, in the opinion of the Board, as the case may be, would enable a person who has completed such programme, to fulfil the competence criteria for entry of the person's name in a particular division.
- (9) Without prejudice to any matter prescribed under *subsection (4)*, a person may be eligible for registration in a division where the person has—
- (a) obtained a qualification in another Member State or a third country, which is recognised under—
 - (i) the Professional Qualifications Regulations, or
 - (ii) an agreement entered into between the European Union and the World Trade Organisation, and provides for the recognition by the states to which the agreement relates of qualifications of a class specified in the agreement,
 - (b) completed practical experience as a provider of building works outside the State, or
 - (c) a combination of *paragraphs (a)* and *(b)*,
- which would enable the person to fulfil the competence criteria for entry in a particular division.
- (10) *Subsections (2)(b), (3) and (4)* shall apply to a determination of the level of practical experience required to be completed by a person outside the State as they apply where the level of practical experience is required to be completed within the State.
- (11) Without prejudice to any matter prescribed under *subsection (4)*, a person who has not previously worked independently as a provider of building works may fulfil the competence criteria for each division and be eligible for registration based on work undertaken by the person at an appropriate level as an employee.
- (12) This section shall operate without prejudice to the requirements of *section 34*.
- (13) For the purpose of performing their respective functions under this section, the Minister or the Board may consult with—
- (a) Quality and Qualifications Ireland,
 - (b) An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS),
 - (c) Skillnet Ireland,
 - (d) the Higher Education Authority,
 - (e) a provider of an education and training programme, and
 - (f) such other persons or bodies as the Minister or the Board sees fit.
- (14) In this section—
- “designated awarding body” has the same meaning as it has in the Act of 2012;

“education and training programme” shall be construed as a “programme of education and training” within the meaning of the Act of 2012;

“European Union” has the same meaning as it has in the European Communities Act 1972;

“National Framework of Qualifications” means the National Framework of Qualifications kept and maintained by Quality and Qualifications Ireland in accordance with section 43 of the Act of 2012;

“third country” means a state that is not a Member State;

“validation” has the same meaning as it has in the Act of 2012;

“World Trade Organisation” means the organisation established under the Agreement establishing the World Trade Organisation done at Marrakesh on 15 April 1994 as amended or supplemented by any protocol to that Agreement which is for the time being in force in the State.

Competent persons

- 30.** (1) Subject to this section, a provider of building works who is a person referred to in *paragraph (b) of section 26(2)* may, for the purposes of *section 34* or, as the case may be, *section 36*, rely upon any of the persons referred to in *paragraph (b) of section 26(2)* or, as the case may be, an employee who holds a qualification or level of practical experience or combination of both as prescribed under *section 29* (in this section referred to as a “competent person”) to fulfil the competence criteria relating to the division in which the provider applies to be or is registered in order to become or, as the case may be, remain eligible for registration in that division.
- (2) The Board shall consider and determine a minimum number, being not less than one, of competent persons to be recommended to the Minister as being required in order to be relied upon for registration in each division.
- (3) For the purpose of its recommendation under *subsection (2)*, the Board shall have regard to the nature of the works and may determine a different minimum number of competent persons required in each division for different circumstances, cases or types of works and, for that purpose, in this section, *section 31* and *section 32* a reference to a division includes a reference to different circumstances, cases or types of works within a division in respect of which the Minister has prescribed under *subsection (5)*.
- (4) The Board shall prepare a report for the Minister which shall contain its recommendation under *subsection (2)* and shall give reasons for the recommendation.
- (5) The Minister, having considered the report of the Board under *subsection (4)* may approve, or approve subject to modifications, the report and prescribe the proposed minimum number to be the minimum number of competent persons required to be relied upon by a person referred to in *subsection (1)* to become or, as the case may be, remain eligible for registration in each division.

- (6) For the purposes of *subsection (1)*, a provider of building works who is a person referred to in *paragraph (b)* of *section 26(2)*, subject to *section 31*, shall not, in relation to a division, rely on less than the minimum number of competent persons as may be prescribed under *subsection (5)* to fulfil the competence criteria relating to the division in which the provider applies to be or is registered.
- (7) A person who fails to comply with *subsection (6)* shall be guilty of an offence.
- (8) The Board shall, in relation to a division, make a recommendation under *subsection (2)* and prepare a report under *subsection (4)*, at the request of the Minister, or at periodic intervals not exceeding every 5 years following the first prescribing of the minimum number of competent persons under *subsection (5)*.
- (9) The registration body shall publish or cause to be published on a website maintained by or on behalf of the registration body, the number of competent persons prescribed under *subsection (5)* to be the minimum number of competent persons required to be relied on by a person referred to in *subsection (1)* to become or, as the case may be, remain eligible for registration in each division.
- (10) A competent person may be relied upon by a provider of building works under this section to fulfil the competence criteria and become eligible for registration in more than one division where the qualification or level of practical experience or combination of both prescribed under *section 29* held by the competent person fulfils the competence criteria for each division.

Departure of competent person

- 31.** (1) Where a competent person relied upon for registration in a division ceases to be a person referred to in *paragraph (b)* of *section 26(2)* or an employee of a registered person referred to in *section 30(1)* the registered person shall, without prejudice to the generality of *section 38*, and not later than 10 days beginning on the date of the departure give notice of the ceasing to the registration body who shall, where in respect of the minimum number of competent persons prescribed under *section 30(5)*, such ceasing amounts to—
- (a) less than or equal to half of the minimum number, note the departure of the competent person on the division of the register and give notice from soon after receipt of the registered person's notice to the registered person that the registered person has 6 months beginning on the date of the departure to furnish information and evidence to satisfy the registration body that a competent person is in place and of fulfilment of the prescribed competence criteria which notice shall advise the registered person that failure to do so shall result in removal from the division of the register,
 - (b) more than half of the minimum number, note the departure of the competent person on the division of the register and give notice from soon after receipt of the registered person's notice to the registered person that the registered person has 3 months beginning on the date of the departure to furnish information and evidence to satisfy the registration body that a competent person is in place and

of fulfilment of the prescribed competence criteria which notice shall advise the registered person that failure to do so shall result in removal from the division of the register, or

- (c) all of the competent persons, immediately suspend the registered person's entry in the division of the register and give notice from soon after receipt of the registered person's notice to the suspended registered person of the suspension and the period which shall not exceed 4 weeks beginning on the date of the departure within which the registration body requires the suspended registered person to comply with *subsection (3)*, which notice shall advise the registered person that failure to do so shall result in removal from the division of the register.
- (2) A registered person who fails to comply with this section shall be guilty of an offence.
 - (3) A suspension under *subsection (1)(c)* shall continue until the suspended registered person furnishes, within the period specified by the registration body under *subsection (1)(c)*, information and evidence to satisfy the registration body that the suspended registered person has a competent person in place and fulfilment of the prescribed competence criteria.
 - (4) If the suspended registered person does not furnish information and evidence to the registration body under *subsection (3)* within the period specified by the registration body under *subsection (1)(c)*, the registration body shall advise the Board and the Board shall at the end of that period remove the suspended registered person from the division of the register.
 - (5) If, having considered the information and evidence provided to the registration body by—
 - (a) the registered person in accordance with a notice under *paragraph (a)* or *(b)* of *subsection (1)* the Board decides that the competent person is in place and the prescribed competence criteria are fulfilled, the note of departure of a competent person shall be removed from the division of the register, or
 - (b) the suspended registered person under *subsection (3)* the Board decides that the competent person is in place and the prescribed competence criteria are fulfilled, the name of the registered person shall be reinstated in the division of the register.
 - (6) If, having considered the information and evidence provided to the registration body by—
 - (a) the registered person in accordance with a notice under *paragraph (a)* or *(b)* of *subsection (1)*, the Board decides that the competent person is not in place or that the registered person does not fulfil the prescribed competence criteria, the Board shall give notice to the registered person that the registered person is removed from the division of the register, or
 - (b) the suspended registered person under *subsection (3)* the Board decides that the competent person is not in place or that the registered person does not fulfil the prescribed competence criteria, the Board shall give notice to the suspended

registered person that the suspended registered person is removed from the division of the register.

- (7) The Board shall give notice to a registered person of a decision under *subsection (6) (a)* or to a suspended registered person of an intention to remove the suspended registered person from the division under *subsection (4)* or a decision under *subsection (6)(b)* as soon as practicable after the decision which shall—
- (a) include reasons for the decision,
 - (b) inform the registered person or suspended registered person that—
 - (i) the registered person or suspended registered person may, under *section 50*, appeal the decision, within 30 days beginning on the date of the notice, and
 - (ii) the appeal shall specify the grounds for the appeal,and
 - (c) inform the registered person or suspended registered person that the decision shall be suspended until, as the case may be—
 - (i) the decision becomes final under *subsection (8)*, or
 - (ii) the disposal of the appeal under *section 50*.
- (8) If, on the expiration of the period of 30 days beginning on the date of the notice under *subsection (7)*, no appeal under *section 50* has been made, the decision of the Board under *subsection (6)* shall be final.
- (9) If, following an appeal of a decision under *subsection (6)*, the appeals committee remits the matter to the Board under *section 50(7)(b)* for reconsideration, that decision shall be suspended until it has been reconsidered by the Board.
- (10) *Subsection (1)* shall apply to an applicant for registration under *section 34* and where a competent person relied upon for registration in any division ceases to be a person referred to in *paragraph (b)* of *section 26(2)* or an employee of a registered person referred to in *section 30(1)* the applicant shall on that ceasing give notice to the Board of it and withdraw the application for registration.

Subsidiaries

32. (1) A provider of building works that is a subsidiary may fulfil the competence criteria in order to become, or as the case may be, remain eligible for registration in any division by relying on a competent person of a superior company, where the superior company is a registered person.
- (2) A competent person may be relied upon by more than one subsidiary of a superior company to fulfil, on behalf of any such subsidiary, the competence criteria and become eligible for registration.
- (3) Where a provider of building works becomes eligible for registration under *subsection (1)*, any written statement required to be submitted under *section 34(3)(a)*

or 36(3)(a) shall be made, in respect of the provider, by the provider and the superior company.

- (4) Where a provider of building works becomes or, as the case may be, remains eligible for registration under *subsection (1)*, the Board may, following a complaint concerning the provider or the superior company or both of them made under *section 44*, cause an investigation to be carried out in respect of the provider or the superior company or both of them under *section 45* and any sanction imposed following such investigation may be imposed on the provider or superior company or both of them.
- (5) *Sections 30* and *31* shall apply to a provider of building works that is a subsidiary as they apply to a provider of building works referred to in those sections.
- (6) In this section—
“subsidiary” has the same meaning as it has in the Act of 2014;
“superior company” has the same meaning as it has in section 7 of the Act of 2014.

PART 5

REGISTRATION AND PRACTICE

Prohibition against providing works unless registered

- 33.** (1) A person shall not, unless the person is at that time a registered person—
- (a) engage as a provider of building works,
 - (b) hold himself or herself or itself out as, or available as, a provider of building works, or
 - (c) represent himself or herself or itself as, or available as a provider of building works by—
 - (i) advertisement,
 - (ii) displaying any card or other object purporting to indicate that he, she or it is entered in the register, or
 - (iii) utilising the name, logo or other identifying particulars of the registration body in any manner.
- (2) A registered person shall not in relation to a category of works for which a division of the register has been prescribed under *section 27(1)*—
- (a) engage as a provider of building works in respect of the category unless the name of the registered person is entered in that division,
 - (b) hold himself or herself or itself as, or available as a provider of building works in respect of the category unless the name of the registered person is entered in that division, or

- (c) represent himself or herself or itself as, or available as a provider of building works in respect of the category unless the name of the registered person is entered in that division by—
 - (i) advertisement, or
 - (ii) displaying any card or other object purporting to indicate that he or she or it is entered in that division.
- (3) A person who fails to comply with this section shall be guilty of an offence.

Application for registration

- 34.** (1) A person may make an application to the Board to be registered in one or more than one division (in this section referred to as an “applicant”).
- (2) An applicant shall—
- (a) apply in writing and in such form and manner as may be specified by the Board,
 - (b) furnish to the Board the name, address and principal place of business of the applicant, or where the applicant is a body corporate that is a company, the name and address of the registered office of the company or in the case of an applicant that is a body corporate (other than a company) or an unincorporated body of persons, of the registered office or principal place of business of the body,
 - (c) where the applicant is a body corporate, furnish to the Board the names and addresses of all persons who are the directors, managers, secretary and other officers of the body corporate or who are identified by the applicant in the application as acting in such capacity and, where the affairs of the body corporate are managed by its members, all of the persons who are identified by the applicant in the application as performing functions of management in relation to the body as if those persons were a director or manager of the body corporate,
 - (d) if applicable, furnish to the Board the name referred to in *section 42(b)*,
 - (e) specify the division to which the application relates,
 - (f) furnish the items and information referred to in *subsection (3)* and any other information that may be requested by the Board, and
 - (g) pay the fee, specified by the registration body, to the Board.
- (3) An applicant shall furnish in such form and manner as may be specified by the Board—
- (a) evidence of fulfilment of the competence criteria in respect of the division to which the application relates,
 - (b) evidence of compliance with *section 40(3)*,
 - (c) evidence that the applicant holds minimum levels of indemnity specified under *section 43*, and

- (d) a written statement of the applicant and, in the case of an applicant referred to in *subsection (2)(c)* of each of the persons whose names and addresses are provided under *subsection (2)(c)*—
- (i) confirming whether the applicant is in compliance with the provisions of the Act of 2005,
 - (ii) confirming whether the applicant is in compliance with the provisions of the building regulations and building control regulations,
 - (iii) confirming whether the applicant has within the last 10 years a conviction in the State for an offence specified in *subsection (8)* (other than a spent conviction within the meaning of section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016) or a conviction outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence referred to in *subsection (8)*,
 - (iv) providing details of any conviction referred to in *subparagraph (iii)*,
 - (v) where the applicant is a body corporate, confirming whether each of the persons referred to in *subsection (2)(c)* has, in an individual capacity or in a capacity as a person referred to in *subsection (2)(c)*, within the last 10 years a conviction in the State for an offence specified in *subsection (8)* (other than a spent conviction within the meaning of section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016) or a conviction outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence referred to in *subsection (8)*,
 - (vi) providing details of any conviction referred to in *subparagraph (v)*,
 - (vii) confirming whether the applicant has within the last 10 years been the subject of an order under section 8 or 12 of the Act of 1990, and
 - (viii) providing details of any order referred to in *subparagraph (vii)*.
- (4) An applicant that is referred to in *subsection (2)(c)* who relies upon a competent person shall furnish the following to the Board:
- (a) the name or names of the competent person or persons;
 - (b) written confirmation from the competent person that he or she consents to being relied upon as a competent person; and
 - (c) evidence of the qualifications or practical experience or both of the competent person to fulfil the competence criteria in the division to which the application relates.
- (5) The Board may request the applicant to furnish additional documents or information and may seek independent verification of any document or information furnished by an applicant under this section.

- (6) Where the Board makes a request under *subsection (5)* the application to which the request relates shall not be considered further until the applicant complies with the request.
- (7) The Board shall acknowledge receipt of a fully completed application within a period of 30 days beginning on the date of receipt.
- (8) The following are the offences referred to in *subparagraphs (iii) and (v) of subsection (3)(d)*:
 - (a) an offence under the Act of 1981;
 - (b) the offences referred to in section 17 of the Act of 1990;
 - (c) an offence under the Act of 2005;
 - (d) an offence under the relevant environmental legislation;
 - (e) an offence under this Act.

Determination of application for registration

- 35.** (1) The Board shall determine an application under *section 34* in accordance with rules made by the registration body under *paragraph 9 of Schedule 2* and within a period of 90 days beginning on the date of receipt of the fully completed application.
- (2) The Board, having considered the matters referred to in *paragraph (c) of section 34(3)* may refuse to register an applicant if it considers that, by reason of any conviction received by the applicant under the Act of 1981, the Act of 1990, the Act of 2005, the relevant environmental legislation or this Act, such refusal is necessary to uphold standards of competence of providers of building work.
- (3) The Board may—
- (a) grant registration where it is satisfied that the applicant is eligible for registration in a division to which the application relates,
 - (b) grant registration subject to conditions, including conditions limiting registration to a specified class of works in a particular division, and such conditions shall apply during the period for which registration is granted or such other period as may be specified by the Board,
 - (c) refuse registration where it is not satisfied that an applicant is eligible for registration in a division to which the application relates, or
 - (d) where an application relates to more than one division and the Board is not satisfied that an applicant is eligible for registration in all of the divisions concerned, grant registration in any division for which the applicant is eligible for registration and refuse registration in any division for which the applicant is not eligible for registration.

- (4) The Board shall give notice to an applicant of the making of a decision under *subsection (3)* as soon as practicable after it is made, which shall, in relation to a decision under *paragraph (b), (c) or (d) of subsection (3)*—
- (a) include reasons for the decision,
 - (b) inform the applicant that—
 - (i) the applicant may, under *section 50*, appeal the decision within 30 days beginning on the date of the notice, and
 - (ii) the appeal shall specify the grounds for the appeal,
 - and
 - (c) inform the applicant that the decision shall be suspended until, as the case may be—
 - (i) the decision becomes final under *subsection (5)*, or
 - (ii) subject to *subsection (6)*, the disposal of the appeal under *section 50*.
- (5) If, on the expiration of the period of 30 days beginning on the date of the notice under *subsection (4)*, no appeal under *section 50* has been made, the decision of the Board under *paragraph (b), (c) or (d) of subsection (3)* shall be final.
- (6) If, following an appeal of a decision under *paragraph (b), (c) or (d) of subsection (3)*, the appeals committee remits the matter to the Board under *section 50(7)(b)* for consideration, that decision shall be suspended until it has been reconsidered by the Board.
- (7) A grant of registration shall be valid for 12 months beginning on the date of a notice under *subsection (4)* or, as the case may be, a notice under *section 50(9)* which shall include a notice that registration shall be valid for a period of 12 months from that date.
- (8) Without prejudice to the generality of *subsection (7)*, where a registered person submits an application seeking registration in an additional division, such registration, if granted, shall be valid for the remainder of the 12 month period for which the registered person already holds registration in another division.
- (9) The Board may from time to time prepare and publish on a website maintained by or on behalf of the Board, such information and guidance as are, in the opinion of the Board, necessary to facilitate the registration process.

Renewal of registration

36. (1) Subject to this section, a registered person's entry in any division may be renewed by the Board.
- (2) A registered person who applies for renewal of registration under this section (in this section referred to as an "applicant") shall—
- (a) apply in writing and in such form and manner as may be specified by the Board,

- (b) apply on a date no later than 6 weeks prior to and ending on the date of expiration of the period of validity, under *section 35(7)*, of the registration to which the application for renewal relates,
 - (c) furnish all additional documents or information as may be requested by the Board, and
 - (d) pay the fee, specified by the registration body, to the Board.
- (3) An applicant shall furnish in such form and manner as may be specified by the Board—
- (a) confirmation of the name, address and principal place of business of the applicant, or where the applicant is a body corporate that is a company, the name and address of the registered office of the company or in the case of an applicant that is a body corporate (other than a company) or an unincorporated body of persons, of the registered office or principal place of business of the body,
 - (b) where the applicant is a body corporate, confirmation of the names and addresses of all the persons referred to in *section 34(2)(c)*,
 - (c) if applicable, confirmation of the name referred to in *section 42(b)*,
 - (d) evidence of compliance with the requirements of the system of continuing professional development for the previous year and a written proposal for compliance with those requirements for the next year,
 - (e) evidence that the applicant continues to hold minimum levels of indemnity specified under *section 43*, and
 - (f) a written statement of the applicant and, in the case of an applicant referred to in *paragraph (b)* of each of the persons whose names and addresses are provided under *paragraph (b)*—
 - (i) confirming whether the applicant is in compliance with the provisions of the Act of 2005,
 - (ii) confirming whether the applicant is in compliance with the provisions of the building regulations and building control regulations,
 - (iii) confirming whether the applicant has, since the date of registration, a conviction in the State for an offence specified in *section 34(8)* (other than a spent conviction within the meaning of section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016) or a conviction outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence referred to in *section 34(8)*,
 - (iv) providing details of any conviction under *subparagraph (iii)*,
 - (v) where the applicant is a body corporate, confirming whether each of the persons referred to in *section 34(2)(c)* has, in an individual capacity or in a capacity as any person referred to in *section 34(2)(c)* since the date of registration, a conviction in the State for an offence specified in *section 34(8)*

(other than a spent conviction within the meaning of section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016) or a conviction outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence referred to in *section 34(8)*,

- (vi) providing details of any conviction referred to in *subparagraph (v)*,
 - (vii) confirming whether the applicant has, since the date of registration, been the subject of an order under section 8 or 12 of the Act of 1990, and
 - (viii) providing details of any order referred to in *subparagraph (vii)*.
- (4) An applicant that is referred to in *subsection (3)(b)* who relies upon a competent person shall furnish the following to the Board:
- (a) the name or names of the competent person or persons;
 - (b) written confirmation from the competent person that he or she consents to being relied upon as a competent person; and
 - (c) where the competent person has not previously been relied upon by the registered person, evidence of the qualifications or practical experience or both of the competent person to fulfil the competence criteria in the division to which the application relates.
- (5) Subject to *section 37*, where an application under this section is not determined by the Board before the expiration of the period of validity, under *section 35(6)* of the registration, then, the registration shall continue in force until the application has been so determined.
- (6) The Board may request the applicant to furnish additional documents or information and may seek independent verification of any document or information furnished by an applicant under this section.
- (7) Where the Board makes a request under *subsection (6)*, the application to which the request relates shall not be considered further until the applicant complies with the request.

Determination of application for renewal

37. (1) The Board may refuse an application to renew registration if the applicant has not complied with *subsection (2), (3), (4) or (6) of section 36*.
- (2) The Board shall determine an application under *section 36* in accordance with rules made by the registration body under *paragraph 9 of Schedule 2* and within a period of 90 days beginning on the date of receipt of the fully completed application.
- (3) The Board may refuse to renew an applicant's registration if, having considered the matters referred to in *paragraph (f) of section 36(3)* it considers that, by reason of any conviction received by the applicant under the Act of 1981, the Act of 1990, the Act

of 2005, the relevant environmental legislation or this Act, such refusal is necessary to uphold standards of competence of providers of building work.

- (4) Where it receives an application for the renewal of registration, the Board may—
- (a) renew an applicant’s registration where it is satisfied that the applicant remains eligible for registration in a division to which the application relates,
 - (b) renew an applicant’s registration subject to conditions, including conditions limiting registration to a specified class of works in a particular division, and such conditions may apply during the period for which registration is granted or such other period as may be specified by the Board,
 - (c) refuse to renew an applicant’s registration where it is not satisfied that an applicant remains eligible for registration in a division to which the application relates, or
 - (d) where an application relates to more than one division and the Board is not satisfied that an applicant remains eligible for registration in all of the divisions concerned, renew the applicant’s registration in any division for which the applicant remains eligible for registration and refuse to renew registration in any division for which the applicant is no longer eligible for registration.
- (5) The Board shall give notice to an applicant of a decision under *subsection (3) or (4)* as soon as practicable after it is made, which shall, in relation to a decision under *subsection (3) or paragraph (b), (c) or (d) of subsection (4)*—
- (a) include reasons for the decision,
 - (b) inform the applicant that—
 - (i) the applicant may, under *section 50*, appeal the decision within 30 days beginning on the date of the notice, and
 - (ii) the appeal shall specify the grounds for the appeal,and
 - (c) inform the applicant that the decision shall be suspended until, as the case may be—
 - (i) the decision becomes final under *subsection (6)*, or
 - (ii) subject to *subsection (7)*, the disposal of the appeal under *section 50*.
- (6) If, on the expiration of the period of 30 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 50* has been made, the decision of the Board under *paragraph (b), (c) or (d) of subsection (4)* shall be final.
- (7) If, following an appeal of a decision under *paragraph (b), (c) or (d) of subsection (4)*, the appeals committee remits the matter to the Board under *section 50(7)(b)* for reconsideration, that decision shall be suspended until it has been reconsidered by the Board.

- (8) Complaints made against a registered person shall be dealt with or continue to be dealt with under *Part 6* and, accordingly, the renewal of registration under this section shall not prejudice or affect—
- (a) any investigation which relates to registration of the registered person, or
 - (b) any legal proceedings under this Act in respect of registration of the registered person.
- (9) Renewal of registration shall be valid for 12 months beginning on the date of a notice under *subsection (5)* or, as appropriate, a notice under *section 50(9)* or *52(6)* which shall include a notice that renewal of registration shall be valid for a period of 12 months from that date.
- (10) An application under this section shall only be considered in so far as it relates to a division for which the applicant was registered in the period immediately preceding the application.

Notification of material matter to registration body

- 38.** (1) Without prejudice to the generality of *section 26(7)*, a registered person shall give notice to the registration body as soon as practicable but, in any case, not later than 30 days beginning on the date that matter comes to the knowledge of the registered person, of any material matter.
- (2) A registered person who fails to comply with this section shall be guilty of an offence.
- (3) *Subsections (1)* and *(2)* shall apply to an applicant as if the applicant were a registered person in the division for which the applicant is seeking registration.
- (4) In this section “material matter” means—
- (a) any change to the information furnished to the Board under *paragraph (b)* or *(c)* of *section 34(2)* or *paragraph (a)* or *(b)* of *section 36(3)*,
 - (b) any change in circumstances relating to the requirements for registration specified in *section 34(3)*, (other than requirements under *section 31(1)* or *34(4)*), and *section 36(3)* (other than requirements under *section 31(1)* or *section 36(4)*),
 - (c) the imposition of conditions on any registration or licence or other authorisation, the revocation, suspension, withdrawal or removal of any registration or licence or other authorisation, or the refusal to grant registration or a licence or other authorisation, by any regulatory body in or outside the State in respect of any capacity or former capacity of the registered person or applicant, as the case may be, relevant to their registration as a provider of building works, and
 - (d) in the case of a registered person referred to in *section 36(3)(a)* or an applicant referred to in *section 34(2)(c)*, any change in the names of the persons furnished to the Board under *paragraph (b)* of *section 36(3)* or *paragraph (c)* of *section 34(2)*.

Continuing professional development

39. (1) The Board shall establish and maintain a system of continuing professional development of providers of building works (in this section referred to as a “system of continuing professional development”).
- (2) The Board shall approve providers of education and training programmes and as the case may be, bodies providing other seminars, training courses or workshops for the purpose of *subsection (1)*.
- (3) A provider of building works who fails to comply with the requirements of the system of continuing professional development shall not be eligible for registration, or to continue to be registered in any division.

Induction course

40. (1) The registration body shall, not later than the first anniversary of the commencement of this section, or such longer period as the Minister permits in writing at the request of the registration body, establish and maintain an induction course (in this section referred to as an “induction course”) for the purposes of familiarising applicants with the obligations of providers of building works under this Act.
- (2) An induction course shall provide an overview of matters including—
- (a) the procedures and requirements to be complied with when applying for registration under *section 34*,
 - (b) the obligations of registered persons under the code of practice,
 - (c) the procedures of the Board and the appeals committee under this Act,
 - (d) the requirement for continuing professional development, and
 - (e) the requirements of the Act of 1981, the Act of 1990, the Act of 2005, the relevant environmental legislation, the building regulations and the building control regulations.
- (3) Subject to *subsection (5)*, all persons shall be required to attend and successfully complete an induction course established under *subsection (1)* in order to become eligible for registration under *section 34*.
- (4) The registration body may specify the form and manner of delivery by the body of the induction course and the requirements for attendance at and completion of the course, which may be otherwise than in person.
- (5) A person referred to in *paragraph (b)* of *section 26(2)* shall be deemed to have complied with *subsection (3)* where any of the persons referred to in that *paragraph (b)* of *section 26(2)* attend and successfully complete the induction course.
- (6) The registration body shall periodically review and, as appropriate, revise the induction course.

- (7) Where the Minister permits a longer period under *subsection (1)*, the registration body shall publish notice of the longer period on a website maintained by or on behalf of the body.

Tax clearance

- 41.** (1) Subject to *subsection (2)*, the Board shall refuse to grant or renew registration in respect of a person in relation to whom a tax clearance certificate is not in force.
- (2) The Board may grant or renew registration in respect of such a person if—
- (a) the person has, at least 4 months before applying for registration or renewal, applied for a tax clearance certificate and it has been refused and an appeal against the refusal has been made under section 1094(7) of the Act of 1997 but not determined, and
- (b) the Board would, but for *subsection (1)* have granted or renewed registration.
- (3) Registration granted or renewed on foot of *subsection (2)* shall expire after 7 days beginning on the date on which the appeal concerned referred to in that subsection has been determined or finally determined and such appeal is unsuccessful.
- (4) The Collector-General shall notify the Board of any appeal against a refusal of an application to issue a tax clearance certificate and of the final determination of any such appeal.
- (5) The reference in *subsection (2)(a)* to section 1094(7) of the Act of 1997 is to that provision as applied by subsection (6) of section 1095 of that Act.
- (6) In this section—
- “Act of 1997” means the Taxes Consolidation Act 1997;
- “Collector-General” means the Collector-General appointed under section 851 of the Act of 1997;
- “person” means a provider of building works;
- “tax clearance certificate” means a certificate under section 1095 of the Act of 1997.

Documents to be provided by corporate bodies

- 42.** The Board shall refuse an application for registration or for the renewal of registration—
- (a) by or on behalf of a company, unless the application is accompanied by a certificate of the incorporation of the company, certified by the registrar of companies under section 891(1)(b) of the Act of 2014 and dated not earlier than 4 weeks ending on the date of the application, and
- (b) by or on behalf of a person carrying on business under a name that is not that of the beneficial owner of the business, unless the application is accompanied by a copy of a certificate of registration of the person under the Registration of

Business Names Act 1963, certified in accordance with section 16(1)(b) of that Act.

Specification of minimum levels of indemnity

43. (1) The registration body shall, by notice in *Iris Oifigiúil*, with the prior consent of the Minister, specify, having regard to the criteria set out in *subsection (3)* the minimum level of indemnity required to be held by a provider of building works.
- (2) The registration body shall, as regards the minimum levels of indemnity specified in a notice referred to in *subsection (1)*, specify in that notice a date or the occurrence of an event on and from which such levels of indemnity are to take effect and different dates or events may be specified for different divisions.
- (3) The criteria referred to in *subsection (1)* in respect of a division are—
- (a) the level of risk generally inherent in the provision of the category of works to which the division relates,
 - (b) the level of risk, from any act or omission of a registered person in the division or an employee of the registered person, to the health, safety or welfare of any person to whom a duty of care is owed by registered persons who provide works to which the division relates,
 - (c) the risks identified by providers of indemnity as particularly associated with the provision of works to which the division relates, and
 - (d) the level of awards or settlements made in proceedings where the cause of action arose out of an alleged breach of duty involving a registered person who provides works to which the division relates.
- (4) In this section “indemnity” means a policy of public liability insurance and a policy of employer’s liability insurance against losses arising from claims in respect of civil liability incurred by a provider of works in respect of any act or omission of that provider of building works or employee of that provider of building works arising from the provision by either of them of building works.

PART 6

COMPLAINTS, INVESTIGATIONS AND SANCTIONS

Complaints

44. (1) A person (in this section referred to as the “complainant”) may make a complaint in writing to the Registrar concerning a registered person on one or more than one of the following grounds (in this section referred to as “improper conduct”):
- (a) provision of works in a division for which the registered person is not registered and is not exempt from registration;

- (b) failure to give notice of ceasing of competent person under *section 31*;
 - (c) failure to notify the registration body of a material matter under *section 38*;
 - (d) failure to fulfil the competence criteria in a division for which the registered person is registered;
 - (e) failure to comply with a condition of registration;
 - (f) failure to comply with the code of practice;
 - (g) failure to comply with the requirements of the system of continuing professional development;
 - (h) failure to comply with *subparagraphs (iii) to (vii) of section 34(3)(d)* or *subparagraphs (iii) to (vii) of section 36(3)(f)*.
- (2) Where the Registrar receives a complaint, he or she shall refer the matter to the Board for investigation unless—
- (a) insufficient information is provided with the complaint to enable the Registrar to form a view whether the complaint should be investigated,
 - (b) the Registrar is satisfied that the complaint is not made in good faith,
 - (c) the Registrar is satisfied that the complaint is vexatious, frivolous, an abuse of process or without substance or foundation,
 - (d) the complaint does not relate to a matter referred to in *subsection (1)*, or
 - (e) subject to *subsection (4)*, following the making of such inquiries as the Registrar thinks fit, he or she is satisfied that the complaint is likely to be resolved by mediation or other informal means between the complainant and registered person to whom the complaint relate.
- (3) Where the Registrar decides that a complaint falls within *paragraphs (a) to (e) of subsection (2)*, he or she shall give notice to the complainant and the registered person to whom the complaint relates of the decision and the reasons for the decision.
- (4) Where a complaint is not resolved by mediation or other informal means referred to in *subsection (2)(e)*, the complainant may, at his or her discretion, make a fresh complaint in respect of the matter the subject of the first-mentioned complaint.

Investigations

45. (1) Subject to *subsection (2) of section 44*, the Board—
- (a) shall, on receipt of a complaint referred to it under *section 44*, or may of its own volition, cause such investigation as it thinks fit to be carried out under this Part, and
 - (b) for the purposes of the investigation, shall appoint an inspector, subject to such terms as the Board thinks fit—
 - (i) to carry out the investigation, and

- (ii) to submit to the Board an investigation report following the completion of the investigation.
- (2) The Board may appoint more than one inspector to carry out an investigation but, in any such case, the investigation report concerned shall be prepared jointly by the inspectors so appointed and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.
- (3) The terms of appointment of an inspector may define the scope of the investigation to be carried out by the inspector, whether as respects the matters or the period to which it is to extend or otherwise, and in particular may limit the investigation to matters connected with particular circumstances.
- (4) Where a complaint is withdrawn by a complainant before the investigation report which relates to the complaint has been submitted to the Board under *section 49*, the Board may proceed as if the complaint had not been withdrawn if it is satisfied that there is good and sufficient reason for so doing.
- (5) Where the Board proceeds under *subsection (4)* as if a complaint had not been withdrawn, the Board shall inform the complainant and the investigation concerned shall thereupon be treated as an investigation initiated by the Board of its own volition, and the other provisions of this Act shall be construed accordingly.
- (6) In this section, “investigation report”, in relation to an investigation, means a report in writing prepared, following the completion of the investigation, by the inspector appointed under *subsection (1)(b)* to carry out the investigation—
- (a) stating that the inspector is, as appropriate—
- (i) satisfied that improper conduct by the registered person the subject of the investigation has occurred or is occurring, or
- (ii) not so satisfied,
- (b) if *paragraph (a)(i)* is applicable, stating the grounds on which the inspector is so satisfied, and
- (c) if *paragraph (a)(ii)* is applicable, stating—
- (i) the grounds on which the inspector is not so satisfied, and
- (ii) the inspector’s opinion, in view of such grounds, on whether or not a further investigation of the registered person is warranted and, if warranted, the inspector’s opinion on the principal matters to which the further investigation should relate.

Notice of investigation

46. (1) Where the Board has appointed an inspector to carry out an investigation, the inspector shall, as soon as practicable after being so appointed—

- (a) if the investigation arises in consequence of the receipt by the Registrar of a complaint, give notice to the registered person to whom the complaint relates of the receipt of the complaint and setting out particulars of the complaint,
 - (b) if the investigation is carried out at the volition of the Board, give notice to the registered person concerned of the matters to which the investigation relates, and
 - (c) in the case of an investigation referred to in *paragraph (a)* or *(b)*—
 - (i) give the registered person—
 - (I) copies of any documents relevant to the investigation, and
 - (II) copies of this Part and *Part 7*,and
 - (ii) without prejudice to the generality of *section 47*, afford to the registered person an opportunity to respond within 30 days beginning on the date on which the registered person received the notice referred to in *paragraph (a)* or *(b)*, or such further period not exceeding 30 days as the inspector allows, to the complaint.
- (2) Where an investigation arises in consequence of the receipt by the Registrar of a complaint, the inspector appointed to carry out the investigation shall—
- (a) as soon as practicable, give the complainant a copy of the notice referred to in *subsection (1)(a)*, and
 - (b) make reasonable efforts to keep the complainant informed of the progress of the investigation.

Powers of inspectors

47. (1) For the purposes of an investigation, an inspector may—
- (a) subject to *subsections (13)* and *(14)*, at all reasonable times enter, inspect, examine and search any premises at, or vehicles in or by means of, which any activity in connection with the provision of works by the registered person, or in connection with the organisation or assistance of persons engaged in the provision by that registered person, is carried on,
 - (b) subject to *subsections (13)* and *(14)*, enter, inspect, examine and search any dwelling occupied by the registered person or where the registered person is a body corporate that is a company, by a director, manager, secretary or other officer of the body, or where the registered person is a body corporate other than a company, by each member of the company performing functions in relation to management of the body or by an employee of a registered person who carries on an activity referred to in *paragraph (a)*, being a dwelling as respects which there are reasonable grounds to believe records relating to the carrying on of that activity are being kept in it,

- (c) without prejudice to any other power conferred by this subsection, require any person found in or on any premises, vehicle or dwelling referred to in any of the preceding paragraphs or any person in charge of or in control of such premises, vehicle or dwelling or directing any activity therein or thereto referred to in *paragraph (a)* to produce any records, plans, reports, books or accounts (whether kept in manual form or otherwise) or other documents which it is necessary for the inspector to see for the purposes of the investigation (and the inspector may inspect, examine and copy any such records, plans, reports, books or accounts or other documents so produced or require a foregoing person to provide a copy of them or of any entries in them to the inspector),
 - (d) require any person referred to in *paragraph (c)* to afford such facilities and assistance within the person's control or responsibilities as are reasonably necessary to enable the inspector to exercise any of the powers conferred on the inspector under *paragraph (a), (b) or (c)*,
 - (e) require any person by or on whose behalf data equipment is or has been used in connection with an activity referred to in *paragraph (a)*, or any person having charge of, or otherwise concerned with the operation of, such data equipment or any associated apparatus or material, to afford the inspector all reasonable assistance in respect of its use, and
 - (f) be accompanied by a member of the Garda Síochána if there is reasonable cause to apprehend any serious obstruction in the performance of any of the inspector's functions under this subsection.
- (2) A requirement under *paragraph (c), (d) or (e) of subsection (1)* shall specify a period within which, or a date and time on which, the person the subject of the requirement is to comply with it.
- (3) For the purposes of an investigation, an inspector—
- (a) may require a person who, in the inspector's opinion—
 - (i) possesses information that is relevant to the investigation, or
 - (ii) has any records, plans, reports, books or accounts (whether kept in manual form or otherwise) or other documents within that person's possession or control or within that person's procurement that are relevant to the investigation,to provide that information or those records, plans, reports, books, accounts or other documents, as the case may be, to the inspector, and
 - (b) where the inspector thinks fit, may require that person to attend before the inspector for the purpose of so providing that information or those records, plans, reports, books, accounts or other documents, as the case may be,
- and the person shall comply with the requirement.
- (4) A requirement under *subsection (3)* shall specify—

- (a) a period, not exceeding 30 days beginning on the date of the requirement, within which, or a date and time by which, the person the subject of the requirement is to comply with the requirement, and
 - (b) as the inspector concerned thinks fit—
 - (i) the place at which the person shall attend to give the information concerned or to which the person shall deliver the records, plans, reports, books, accounts or other documents concerned, or
 - (ii) the place to which the person shall send the information or the records, plans, reports, books, accounts or other documents concerned.
- (5) A person required to attend before an inspector under *subsection (3)*—
- (a) is also required to answer fully and truthfully any question put to the person by the inspector, and
 - (b) if so required by the inspector, shall answer any such question under oath.
- (6) Where it appears to an inspector that a person has failed to comply or fully comply with a requirement under *subsection (1), (3) or (5)*, the inspector may, on notice to that person and with the consent of the Board, apply in a summary manner to the Circuit Court for an order under *subsection (7)*.
- (7) Where satisfied after hearing the application about the person's failure to comply or fully comply with the requirement in question, the Circuit Court may, subject to *subsection (10)*, make an order requiring that person to comply or fully comply, as the case may be, with the requirement within a period specified by the Court.
- (8) An application under *subsection (6)* to the Circuit Court shall be made to a judge of that Court for the circuit in which the person the subject of the application resides or ordinarily carries on any profession, business or occupation.
- (9) The administration of an oath referred to in *subsection (5)(b)* by an inspector is hereby authorised.
- (10) A person the subject of a requirement under *subsection (1), (3) or (5)* shall be entitled to the same immunities and privileges in respect of compliance with such requirement as if the person were a witness before the High Court.
- (11) Any statement or admission made by a person pursuant to a requirement under *subsection (1), (3) or (5)* is not admissible against that person in criminal proceedings other than criminal proceedings for an offence under *subsection (15)*, and this shall be explained to the person in ordinary language by the inspector concerned.
- (12) Nothing in this section shall be taken to compel the production by any person of any records, plans, reports, books or accounts (whether kept in manual form or otherwise) or other documents which he or she would be exempt from producing in proceedings in a court on the ground of legal professional privilege.
- (13) An inspector shall not, other than with the consent of the occupier, enter a private dwelling without a warrant issued under *subsection (14)* authorising the entry.

- (14) A judge of the District Court, if satisfied on the sworn information of an inspector that—
- (a) (i) there are reasonable grounds for suspecting that any information is, or any records, plans, reports, books or accounts (whether kept in manual form or otherwise) or other documents required by an inspector under this section are, held on any premises or any part of any premises, and
 - (ii) an inspector, in the performance of functions under *subsection (1)*, has been prevented from entering the premises or any part thereof,
- or
- (b) it is necessary that the inspector enter a private dwelling and exercise therein any of his or her powers under this section,
- may issue a warrant authorising the inspector, accompanied if necessary by other persons, at any time or times within 30 days beginning on the date of issue of the warrant and on production if so requested of the warrant, to enter, if need be by reasonable force, the premises or part of the premises concerned and perform all or any such functions.
- (15) Subject to *subsection (12)*, a person who—
- (a) withholds, destroys, conceals or refuses to provide any information or records, plans, reports, books or accounts (whether kept in manual form or otherwise) or other documents required for the purposes of an investigation,
 - (b) fails or refuses to comply with any requirement of an inspector under this section, or
 - (c) otherwise obstructs or hinders an inspector in the performance of functions imposed under this Act,
- shall be guilty of an offence.
- (16) In this section, “records, plans, reports, books or accounts” includes copies of reports, records, books or accounts.

Actions to be taken by inspector on completion of investigation

- 48.** (1) Subject to *subsection (3)*, where an inspector has completed an investigation, and considered any information or documents provided to him or her pursuant to any requirement under *section 47*, the inspector shall, as soon as practicable—
- (a) prepare a draft of the investigation report, and
 - (b) give to the registered person to whom the investigation relates and, if the investigation arose in consequence of the receipt of a complaint, the complainant—
 - (i) a copy of the draft of the investigation report,
 - (ii) a copy of this section, and

- (iii) a notice in writing stating that the registered person and the complainant (if any) may, not later than 30 days beginning on the date on which the notice was respectively received by them, or such further period not exceeding 30 days as the inspector allows, each make submissions in writing to the inspector on the draft of the investigation report.
- (2) Subject to *subsection (3)*, an inspector who has complied with *subsection (1)* shall, as soon as practicable after—
- (a) the expiration of the period referred to in *subsection (1)(b)(iii)*, and
 - (b) having—
 - (i) considered the submissions (if any) referred to in *subsection (1)(b)(iii)* made before the expiration of that period on the draft of the investigation report concerned, and
 - (ii) made any revisions to the draft of the investigation report which, in the opinion of the inspector, are warranted following such consideration,prepare the final form of the investigation report and submit it to the Board with any such submissions annexed to the report.
- (3) Where an inspector states, whether in a draft of the investigation report or in the final form of the investigation report, that he or she is satisfied that improper conduct by the registered person has occurred or is occurring, the inspector shall not make any recommendation, or express any opinion, in the report as to the sanction that he or she thinks ought to be imposed on the registered person in respect of such improper conduct in the event that the Board is also satisfied that improper conduct by the registered person has occurred or is occurring.

Determination by Board

49. (1) On receipt of an investigation report submitted to it by an inspector under *section 48(2)*, the Board shall consider the report and any submissions annexed to it.
- (2) Subject to *subsection (3)*, where the Board has considered the investigation report and any submissions annexed to it, the Board—
- (a) if it is satisfied that improper conduct by the registered person to whom the investigation report relates has occurred or is occurring, shall, as it thinks fit in the circumstances of the case, subject to *subsection (6)* and *section 54*—
 - (i) impose a minor sanction on the registered person, or
 - (ii) impose a major sanction on the registered person,
 - (b) if it is not satisfied that improper conduct by the registered person to whom the investigation report relates has occurred or is occurring but is of the opinion that a further investigation of the registered person is warranted, shall cause the further investigation to be carried out pursuant to its powers under *section 45(1)*, or

- (c) if it is not satisfied that improper conduct by the registered person to whom the investigation report relates has occurred or is occurring but is not of the opinion that a further investigation of the registered person is warranted, and the investigation arose from a complaint, shall dismiss the complaint and take no further action.
- (3) Where the Board has considered an investigation report and any submissions annexed to it submitted to the Board under *section 48(2)*, it may if requested to do so by the registered person or, if it considers it proper to do so for the purposes of assisting it to make a decision under *subsection (2)*, or for the purposes of observing fair procedures, for those purposes—
- (a) conduct an oral hearing, or
- (b) give to the registered person to whom the investigation concerned relates and, if the investigation arose in consequence of the receipt of a complaint, the complainant—
- (i) a copy of the investigation report, and
- (ii) a notice stating that the registered person and the complainant (if any) may, not later than 30 days beginning on the date on which the notice was respectively received by them, or such further period not exceeding 30 days as the Board allows, each make submissions in writing to the Board on the investigation report.
- (4) Subject to *Schedule 1* the chairperson of the Board shall determine how an oral hearing under *subsection (3)(a)* is conducted.
- (5) The Board shall give notice by prepaid registered post to the registered person to whom the investigation relates of a decision under *subsection (2)* as soon as practicable after it is made, which shall—
- (a) include reasons for the decision,
- (b) where the decision is under *subsection (2)(a)*, inform the registered person that—
- (i) the registered person may, under *section 50*, appeal the decision within 30 days beginning on the date of the notice, and
- (ii) the appeal shall specify the grounds for the appeal,
- and
- (c) where the decision is under *subsection (2)(a)*, inform the applicant that the decision shall be suspended until, as the case may be—
- (i) the decision becomes final in accordance with *subsection (6)*, or
- (ii) subject to *subsection (7)* the disposal of the appeal under *section 50*.
- (6) If, on the expiration of the period of 30 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 50* has been made, the decision of the Board under *subsection (2)(a)* shall be final.

- (7) If, following an appeal of a decision under *subsection (2)(a)*, the appeals committee direct the Board under *section 50(7)(b)* to reconsider the decision, that decision shall be suspended until it has been reconsidered by the Board.
- (8) In this section—
- “major sanctions” means—
- (a) the removal of the registered person from the register,
 - (b) the suspension of the registered person’s entry in the register—
 - (i) for a specified period, or
 - (ii) until compliance by the registered person with a condition to which termination of the suspension is subject,
 - (c) the removal of a registered person from a particular division,
 - (d) any combination of any of the sanctions specified in *paragraphs (a) to (c)*;
- “minor sanctions” means—
- (a) advice,
 - (b) a reprimand,
 - (c) a caution, or
 - (d) any combination of any of the sanctions specified in *paragraphs (a) to (c)*.

Appeal to appeals committee

- 50.** (1) Any person adversely affected by a decision of the Board under *section 31(4)*, *paragraph (b), (c) or (d) of section 35(3)*, *section 37(3)*, *paragraph (b), (c) or (d) of section 37(4)*, or *section 49(2)(a)* may appeal to the appeals committee against the decision not later than 30 days beginning on the date of the notice of that decision (in this section referred to as “the appellant”).
- (2) An appeal shall be in writing and specify the decision to which the appeal relates and the grounds on which the appeal rests.
- (3) An appeal may be based on either procedural or substantive matters.
- (4) An appellant may, at any time before the appeal is heard, withdraw the appeal in whole or in part by notifying the appeals committee in writing of the withdrawal.
- (5) A witness at a hearing conducted by the appeals committee has the same immunities and privileges as if he or she were a witness before the High Court.
- (6) The chairperson of the appeals committee may—
- (a) direct in writing an appellant to attend before the appeals committee on a date and at a time and place specified in the direction,

- (b) direct in writing any other person whose evidence the appeals committee may require to attend before the appeals committee on a date and at a time and place specified in the direction and to bring any document in the person's possession relating to the appeal,
 - (c) request in writing the Board to produce any documents in its possession relating to the appeal together with its observations on the appeal, and
 - (d) give any other direction in writing for the purpose of the proceedings that appears to the chairperson to be fair and reasonable.
- (7) On the hearing of an appeal under this section, the appeals committee may—
- (a) confirm the decision of the Board, subject to any amendment thereof as the appeals committee thinks fit,
 - (b) remit, for stated reasons and with or without directions, the matter to the Board for reconsideration and the making of a new decision (which new decision may, in the case of a decision of the Board referred to in *section 49(2)(a)*, be a decision under *section 49(2)(a)(ii)* to impose a major sanction), or
 - (c) substitute its determination for the decision of the Board (which may, in the case of a decision of the Board referred to in *section 49(2)(a)*, be a decision under *section 49(2)(a)(ii)* to impose a major sanction).
- (8) Where the appeals committee determines under *subsection (7)(c)* to impose a major sanction under *section 49(2)(a)(ii)*, *sections 51 to 53* shall, with all necessary modifications, apply to the determination as if it were a decision of the Board to impose a major sanction on the registered person concerned.
- (9) The chairperson of the appeals committee shall give notice to—
- (a) the appellant, by prepaid registered post, of the decision taken on the appeal, the date on which it was made and the reasons for it, and shall inform the appellant that the appellant may, under *section 52*, appeal the decision to the High Court,
 - (b) the Board of the decision taken on the appeal, the date on which it was made and the reasons for it.

Confirmation of High Court required before decision to impose major sanction takes effect

- 51.** A decision of the Board under *section 49(2)(a)* or the appeals committee under *section 50* to impose or confirm a decision to impose a major sanction shall not take effect unless the decision is confirmed by the High Court under *section 52* or *53*, as the case may be.

Appeal to High Court

- 52.** (1) Any person the subject of a decision under *section 50* may, not later than 30 days beginning on the date the registered person receives notice of that decision, appeal to the Court against the decision.

- (2) The Court may, for the purpose of ensuring the efficient, fair and timely determination of an appeal, issue directions in respect of the conduct of the appeal.
- (3) The Court shall dismiss an appeal if it is of the opinion that the appeal is vexatious, frivolous, an abuse of process or without substance or foundation.
- (4) The Court may, on the hearing of an appeal under *subsection (1)*, consider—
 - (a) whether the appeals committee in making its decision committed a serious or significant error of law or fact, or a series of minor errors of law or fact which when taken together amount to a serious or significant error,
 - (b) whether the appeals committee complied with fair procedures in making its decision, and
 - (c) whether the sanction upheld or imposed by the appeals committee was appropriate and proportionate.
- (5) In considering an appeal, the Court—
 - (a) shall have regard to the record of the decision the subject of the appeal, and
 - (b) may, where it considers it necessary or expedient for the fair and proper determination of the appeal, have regard to any submissions, documents or evidence adduced by a party to an appeal whether or not already adduced or contained in the record of the decision as the Court considers appropriate.
- (6) The Court may, on the hearing of an appeal under *subsection (1)*—
 - (a) confirm the decision the subject of the appeal, or
 - (b) where it is satisfied by reference to the grounds of appeal that a serious or significant error of law or fact, or a series of minor errors of law or fact which when taken together amount to a serious or significant error, was made in making the decision the subject of the appeal or that the decision was made without complying with fair procedures—
 - (i) annul the decision and substitute such other decision as the Court considers appropriate, or
 - (ii) remit the matter to the appeals committee for reconsideration and the making of a new decision, with or without directions as the Court considers appropriate including whether the matter should be reconsidered by another constitution of the appeals committee.
- (7) A registered person shall, when making an appeal under this section, comply with the requirements of this section and any applicable rules of court made thereunder and where a registered person does not so comply, the appeal shall be invalid and shall not be considered.
- (8) In this section “Court” means the High Court.

Application to High Court to confirm decision to impose major sanction

53. (1) Where a registered person does not appeal against a decision to impose a major sanction on that person to the appeals committee within the period specified under *section 50(1)* or to the Court within the period allowed under *section 52*, as the case may be, the registration body shall, as soon as practicable after the expiration of the relevant period, by motion on notice to the registered person make an application in a summary manner to the Court for confirmation of a decision to impose a major sanction.
- (2) The Court may, on the hearing of an application under *subsection (1)*—
- (a) confirm the decision the subject of the application, or
 - (b) where it is satisfied on the basis of the evidence before the Board or appeals committee that there is a manifest and fundamental error of law that undermines the basis for the decision—
 - (i) annul the decision and substitute such other decision as the Court considers appropriate, or
 - (ii) remit the matter to the Board or, as the case may be, the appeals committee for reconsideration and the making of a new decision, with or without directions as the Court considers appropriate.
- (3) The registration body shall, prior to making an application under *subsection (1)*, by notice to the person concerned, seek the consent in writing of that person to the imposition of the major sanction referred to in *subsection (1)*.
- (4) Where the person concerned consents to the imposition of the major sanction concerned in accordance with a notice under *subsection (3)*, an application by the registration body under *subsection (1)* may be made *ex parte*.
- (5) Where the person concerned consents to the imposition of the major sanction concerned in accordance with *subsection (3)*, the sanction shall take effect when the decision of the registration body has been confirmed by the Court in accordance with this section.
- (6) Subject to *subsection (2)*, where the application relates to a decision to remove or suspend a registered person from the register or from a particular division, the Court may either (as the Court may consider proper) direct the Board to remove the name of such person from the register concerned or direct that during a specified period (which shall not commence until the elapse of 7 days beginning on the date of the decision of the Court) or until such person complies with a condition to which termination of the suspension is subject, the inclusion of the registered person's name and details in the register shall be suspended.
- (7) If the Court confirms the decision under *subsection (2)(a)* or substitutes the decision under *subsection (2)(b)(i)*, the decision of the Court shall be substituted for the decision the subject of the application.

- (8) A registered person to whom a decision to impose a major sanction under *section 49(2)(a)* or *section 50* relates may within 30 days of receiving the notice referred to in *subsection (1)* inform the registration body in writing that it does not intend to appear, and does not intend to make submissions, at the hearing of any application under *subsection (1)*.
- (9) The Registrar shall, as soon as practicable, give notice to the registered person the subject of a decision under this section by prepaid registered post of the decision of the Court, the date on which it was made and the date from which such decision will take effect as regards the registered person's entry in the register.
- (10) In this section, "Court" means the High Court.

Matters to be considered in determining sanction to be imposed

54. The Board, the appeals committee or the High Court, as appropriate, in considering the sanction (if any) to be imposed—

- (a) on a registered person under *section 49(2)(a)*, or
- (b) on a registered person pursuant to a decision confirmed or given under *section 50, 52 or 53*,

shall take into account the circumstances of the improper conduct concerned (including the factors occasioning it) and, without prejudice to the generality of the foregoing, may have regard to—

- (i) the need to ensure that any sanction imposed—
- (I) is appropriate and proportionate to the improper conduct, and
- (II) if applicable, will act as a sufficient incentive to ensure that any like improper conduct will not occur in the future,
- (ii) the seriousness of the improper conduct,
- (iii) the extent of any failure by the registered person to co-operate with the investigation concerned of the registered person,
- (iv) any excuse or explanation by the registered person for the improper conduct or failure to co-operate with the investigation concerned,
- (v) the duration of the improper conduct,
- (vi) the repeated occurrence of improper conduct by the registered person,
- (vii) if applicable, the continuation of the improper conduct after the registered person was notified of the investigation concerned,
- (viii) if applicable, the extent and timeliness of any steps taken to end the improper conduct and any steps taken for remedying the consequences of the improper conduct,

- (ix) whether a sanction in respect of like improper conduct has already been imposed on the registered person by a court, the Board or another person, and
- (x) any precedents set by a court, the Board or another person in respect of a previous improper conduct.

PART 7

MISCELLANEOUS

Additional jurisdiction of appeals committee

- 55.** (1) If the Board fails to make a decision referred to in *section 35(1)* or *37(2)* within the 90 day period specified therein, a person adversely affected by such failure may make a complaint to the appeals committee that such a failure has occurred.
- (2) On the hearing of such a complaint and having given the Board an opportunity to be heard, the appeals committee may, as it thinks appropriate—
- (a) give a direction to the Board to make the decision concerned as soon as practicable, or
 - (b) make a decision on the application concerned (and where the appeals committee does so, *section 52* shall apply to such a decision as it applies to any other decision of the appeals committee).

Proceedings privileged

- 56.** The following shall be absolutely privileged:
- (a) complaints made to the Board under *Part 6* and documents created or furnished to the parties entitled to receive them under *Part 6*;
 - (b) proceedings, documents and communications associated with an investigation by an inspector, the Board or the appeals committee under *Part 6*;
 - (c) a report of an inspector, the Board or the appeals committee in the exercise or performance of powers, duties or functions under *Part 6*.

Restoration to register and termination of suspension

- 57.** (1) A provider of building works whose entry has been removed from the register may apply to the Board to have their entry in the register restored and *section 34* shall apply to any such application as it applies to an application under that section subject to any necessary modifications and save where provided for in *subsection (2)*.
- (2) An entry in the register that has been removed may be restored at the direction of the Board, but not otherwise, and the Board may attach such conditions as it sees fit to the restoration, including payment of a fee not exceeding the fee specified under *section 34(2)(g)*.

- (3) Where the registration of a provider of building works has been suspended, the Board shall, subject to *subsection (4)*, terminate the suspension.
- (4) A person whose registration has been suspended—
 - (a) may apply to the Board, upon expiry of the specified period or on compliance by the person with the condition to which the termination is subject, to terminate the suspension, and
 - (b) for that purpose shall—
 - (i) provide information in a form specified by the Board to satisfy the Board that, subject to *section 38*, the information provided by the person under *section 34* or *36*, as the case may be, on the application for the registration concerned, remains accurate, and
 - (ii) pay a fee as may be specified by the registration body for the purposes of this subsection, which shall not exceed the fee specified under *section 34(2)(g)* in relation to an application for the registration concerned.

Publication of sanctions and convictions

- 58.** (1) The registration body shall publish particulars, in such form and manner and for such period as it thinks fit, of a decision confirmed or given by the High Court under *section 52* or *53*, or a conviction of a registered person under *section 60*.
- (2) Where a registered person receives two or more minor sanctions within a period of 3 years, the registration body shall publish particulars, in such form and manner and for such period as it thinks fit, of the decisions of the Board or appeals committee imposing or upholding imposition of the minor sanctions on the registered person under *section 49(2)(a)* or *section 50*.
- (3) Without prejudice to *subsections (1)* and *(2)*, the registration body shall not publish particulars of any sanction imposed under this Act until the expiry of any time permitted for an appeal of the decision to impose the sanction.

Transitional arrangements

- 59.** (1) The Minister shall prescribe a period of at least 12 months for each division following which a provider of building works shall be required to be registered in order to provide works under that division.
- (2) A period prescribed under *subsection (1)* shall commence in relation to a division, on the date on which regulations made under *section 29*, prescribing the required qualifications or a level of practical experience or combination of both for registration in the division come into operation.
- (3) The Minister may prescribe different periods under *subsection (1)* for different divisions.

Offences and penalties**60.** (1) A person who—

- (a) knowingly makes any false or misleading statement in any application, complaint or appeal under this Act or any document required thereunder or otherwise gives false or misleading information to the registration body, the Board or the appeals committee, or
 - (b) being a registered person, fails to comply with a condition of registration,
- shall be guilty of an offence.

(2) A person guilty of an offence—

- (a) under *section 47(15), subparagraph (10) of paragraph 2 of Schedule 2, subparagraph (2) of paragraph 7 of Schedule 2 or paragraph (a) of subsection (1)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
 - (b) under *sections 30(7), 31(2), 33(3), 38(2) or paragraph (b) of subsection (1)* shall be liable—
 - (i) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
 - (ii) on conviction on indictment to a fine not exceeding €500,000, or imprisonment for a term not exceeding 12 months, or both.
- (3) The Board may bring and prosecute summary proceedings for an offence under this Act.
- (4) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act to which that provision applies may be instituted—
- (a) within 12 months from the date on which the offence was committed, or
 - (b) within 6 months from the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify proceedings comes to that person's knowledge, whichever is the later, provided that no such proceedings shall be commenced later than 5 years from the date on which the offence concerned was committed.
- (5) For the purposes of *subsection (4)(b)*, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence referred to in that subsection came to his or her knowledge shall be evidence of that date and, in any legal proceedings, a document purporting to be a certificate under this subsection and to be so signed shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.
- (6) It shall be presumed, until the contrary is shown, that proceedings for an offence under this Act were commenced within the appropriate period.

Liability for offences by bodies corporate**61.** (1) Where—

- (a) an offence under this Act has been committed by a body corporate, and
- (b) the offence is proved to have been so committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a person who was either—
 - (i) a director, manager, secretary or other officer of the body corporate, or
 - (ii) purporting to act in any such capacity,

that person, as well as the body corporate, shall be guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with the member's functions of management as if he or she were a director or manager of the body corporate.

Application for Court order where certain convictions

62. (1) Where a registered person is convicted of an offence to which this section applies, the registration body may, where it considers it appropriate in circumstances where the commission of the offence has caused loss of life, serious injury or substantial economic loss, apply to the Court, on notice to the registered person, seeking an order revoking the registration of that registered person and imposing a prohibition on that person.

- (2) An order under *subsection (1)* shall not take effect until—

- (a) the ordinary time for bringing an appeal against the conviction concerned has expired without any such appeal having been brought,
- (b) any such appeal has been withdrawn or abandoned, or
- (c) on any such appeal, the conviction or order, as the case may be, is upheld.

- (3) In considering an application under *subsection (1)* the Court may have regard to the circumstances considered by the Board under *subsection (1)* and to—

- (a) the seriousness of the offence,
- (b) the extent of any failure by the registered person to co-operate with an investigation of the offence,
- (c) any explanation provided by the registered person for the commission of the offence,
- (d) the duration of the conduct which constituted the commission of the offence, or
- (e) whether the person has a previous conviction for an offence under this Act.

- (4) The Registrar shall, as soon as practicable after a decision of the Court is made under this section, give notice to the person the subject of the application under *subsection (1)*, of the decision, the date on which it was made and the date from which it will take effect.
- (5) In this section—
- “Court” means the High Court;
- “prohibition” means a prohibition from applying for registration in any division or particular class of works in a division and may include a permanent prohibition, a prohibition for a specified period or a prohibition subject to specified conditions.

Relationship between investigation and criminal proceedings

63. (1) If a sanction is imposed on a person under *section 49(2)* or *sections 50, 52 or 53*, as the case may be, and the improper conduct in respect of which the sanction is imposed is an offence under this Act, the person is not liable to criminal proceedings under this Act for the offence in respect of the matter concerned.
- (2) An acknowledgment of an infringement of this Act by a person in an investigation under *section 45* or oral hearing under *section 49* is not admissible against the person in criminal proceedings other than criminal proceedings for an offence under *section 47(15)* or *subparagraph (10) of paragraph 2 of Schedule 2*.

Registration body designated as competent authority for providers of building works

64. (1) The registration body is designated, as of and from the day on which the register is established under *section 26*, as the competent authority for providers of building works under the Professional Qualifications Regulations.
- (2) The registration body shall, on and after the day on which the register is established under *section 26*, act as the competent authority for the purposes of all matters referred to in the Professional Qualifications Regulations which relate to the role of a competent authority for the purposes of the recognition of professional qualifications of persons engaged in the provision of works.
- (3) Unless otherwise specified in this Act, nothing in this Act shall be construed to prejudice the performance by the registration body of its functions under the Professional Qualifications Regulations as the competent authority in respect of providers of building works as a regulated profession (within the meaning of Regulation 3 of those Regulations).

Application of section 29 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020

65. Notwithstanding anything contained in section 29 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, the Minister may designate the registration body to be a State body under subsection (3)(b) of section 29 of that Act.

PART 8

MISCELLANEOUS AMENDMENTS OF ACT OF 2007

Amendment of section 2 of Act of 2007

66. Section 2 of the Act of 2007 is amended in paragraph (b) of the definition of “registration body” by the substitution of “the Society of Chartered Surveyors Ireland” for “the Society of Chartered Surveyors”.

Amendment of section 17 of Act of 2007

67. Section 17 of the Act of 2007 is amended by the substitution of the following subsection for subsection (2):

“(2) Where the Registrar has sent a notice by prepaid registered post to a registered professional’s address as given in the register and has sent a further notice to the person in such manner, including by electronic means, as the Registrar considers appropriate, requesting payment of the annual fee the Registrar may, if the person has not paid the fee within 2 months after sending the second notice, remove the person’s name from the register and thereupon shall send a notice by prepaid registered post informing the person that he or she is no longer registered.”.

Continuing professional development (Part 3)

68. The Act of 2007 is amended by the insertion of the following new section after section 17:

- “17A. (1) The registration body shall maintain a system of continuing professional development of architects (in this section referred to as a ‘system of continuing professional development’).
- (2) A person registered under this Part shall, as a condition of continuing to be registered, comply with the requirements of the system of continuing professional development and shall provide evidence that he or she has so complied in such manner and at such time as may be specified by the registration body.
- (3) The name of a person who fails to comply with subsection (2) shall be removed from the register.”.

Amendment of section 28 of Act of 2007

69. Section 28 of the Act of 2007 is amended, in subsection (1), by the substitution of “The Society of Chartered Surveyors Ireland” for “The Society of Chartered Surveyors”.

Amendment of section 29 of Act of 2007

70. Subsection (2) of section 29 of the Act of 2007 is amended by the substitution of the following paragraph for paragraph (b):

“(b) a fellow or professional member of the Society of Chartered Surveyors Ireland, Quantity Surveying Division;”.

Amendment of section 31 of Act of 2007

71. Section 31 of the Act of 2007 is amended by the substitution of the following subsection for subsection (2):

“(2) Where the Registrar has sent a notice by prepaid registered post to a registered professional’s address as given in the register and has sent a further notice to the person in such manner, including by electronic means, as the Registrar considers appropriate, requesting payment of the annual fee the Registrar may, if the person has not paid the fee within 2 months after sending the second notice, remove the person’s name from the register and thereupon shall send a notice by prepaid registered post informing the person that he or she is no longer registered.”.

Continuing professional development (Part 4)

72. The Act of 2007 is amended by the insertion of the following new section after section 31:

- “31A. (1) The registration body shall maintain a system of continuing professional development of quantity surveyors (in this section referred to as a ‘system of continuing professional development’).
- (2) A person registered under this Part shall, as a condition of continuing to be registered, comply with the requirements of the system of continuing professional development and shall provide evidence that he or she has so complied in such manner and at such time as may be specified by the registration body.
- (3) The name of a person who fails to comply with subsection (2) shall be removed from the register.”.

Amendment of section 42 of Act of 2007

73. Section 42 of the Act of 2007 is amended, in subsection (1), by the substitution of “The Society of Chartered Surveyors Ireland” for “The Society of Chartered Surveyors”.

Amendment of section 43 of Act of 2007

74. Section 43 of the Act of 2007 is amended, in paragraphs (b) and (f) of subsection (2), by the substitution of “a fellow or professional member of the Society of Chartered

Surveyors Ireland” for “a fellow or associate of the Society of Chartered Surveyors”.

Amendment of section 45 of Act of 2007

75. Section 45 of the Act of 2007 is amended by the substitution of the following subsection for subsection (2):

“(2) Where the Registrar has sent a notice by prepaid registered post to a registered professional’s address as given in the register and has sent a further notice to the person in such manner, including by electronic means, as the Registrar considers appropriate, requesting payment of the annual fee the Registrar may, if the person has not paid the fee within 2 months after sending the second notice, remove the person’s name from the register and thereupon shall send a notice by prepaid registered post informing the person that he or she is no longer registered.”.

Continuing professional development (Part 5)

76. The Act of 2007 is amended by the insertion of the following new section after section 45:

- “45A. (1) The registration body shall maintain a system of continuing professional development of building surveyors (in this section referred to as a ‘system of continuing professional development’).
- (2) A person registered under this Part shall, as a condition of continuing to be registered, comply with the requirements of the system of continuing professional development and shall provide evidence that he or she has so complied in such manner and at such time as may be specified by the registration body.
- (3) The name of a person who fails to comply with subsection (2) shall be removed from the register.”.

Amendment of section 57 of Act of 2007

77. Section 57 of the Act of 2007 is amended—

(a) by the insertion of the following subsection after subsection (2):

“(2A) The opinion of the Committee referred to in subsection (2) shall be final and shall not be a decision of the Committee for the purposes of section 25(1), 39(1) or 53(1).”.

and

(b) in subsection (5), by the substitution of “Subject to subsection (2A), the” for “The”.

Amendment of section 71 of Act of 2007

78. Section 71 of the Act of 2007 is amended, in subsection (5)(a), by the substitution of “5” for “6”.

PART 9

AMENDMENT OF NURSING HOMES SUPPORT SCHEME ACT 2009

Definition (Part 9)

79. In this Part—

“Act of 2009” means the Nursing Homes Support Scheme Act 2009;

“Act of 2022” means the *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022*.

Amendment of section 3 of Act of 2009

80. Section 3 of the Act of 2009 is amended, in subsection (1), by the insertion of the following definitions:

“ ‘Act of 2022’ means the *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022*;

‘eligible rental income’ has the meaning assigned to it by Schedule 1;”.

Annual report relating to eligible rental income

81. The Act of 2009 is amended by the insertion of the following section after section 45A:

“45AA.(1) The Executive shall prepare in respect of each year (or such longer period as the Minister may, following receipt of the third report under this section, prescribe by regulations) a report containing information in relation to—

- (a) the proportion of financial assessments in respect of which eligible rental income is taken into account,
- (b) the number of principal residences from which eligible rental income derives,
- (c) an assessment of likely trends arising from the effects on the Scheme of the treatment of eligible rental income,
- (d) the impact of the changes effected by *Part 9* of the *Act of 2022* on outcomes for persons participating in the Scheme, including the timing of participation in the Scheme and risks relating to the safeguarding of vulnerable persons, and

- (e) such other matters as may be specified by the Minister.
- (2) The Executive shall send a copy of each report prepared under this section to the Minister—
 - (a) before the end of June in the year following that to which the report relates, or
 - (b) where the Minister has made regulations under subsection (1), before the end of June in the year following the last year to which the report relates.
- (3) For the purposes of preparing a report under subsection (1) and, subject to section 45(7), the Executive shall keep records of information in relation to—
 - (a) financial assessments under section 10,
 - (b) notifications under section 24 relating to eligible rental income, and
 - (c) such other matters as may be specified by the Minister.”.

Review of operation of amendments effected by *Part 9 of Act of 2022*

82. The Act of 2009 is amended by the insertion of the following section after section 45B:

- “**45C.**(1) The Minister shall, 6 months after the coming into operation of *section 82 of the Act of 2022*, carry out a review of the operation of the amendments to this Act effected by *Part 9 of the Act of 2022*.
- (2) Without prejudice to the generality of section 45AA, the Minister shall, in consultation with the Minister for Public Expenditure and Reform and the Minister for Housing, Local Government and Heritage, prepare not later than 3 months after the commencement of the review under subsection (1) a report setting out the findings and conclusions consequent on such review.
 - (3) The Minister shall cause a copy of the report prepared under subsection (2) to be laid before each House of the Oireachtas as soon as practicable after it has been prepared.”.

Government order to modify assessment of eligible rental income

83. The Act of 2009 is amended by the insertion of the following section after section 45C:

- “**45D.**(1) Subject to subsection (3), where a report has been prepared under section 45C(2), the Government may, at the request of the Minister and the Minister for Housing, Local Government and Heritage, make an order—
- (a) providing that, with effect from such date as may be specified in the order—

- (i) step I of paragraph 2A of Part 1A of Schedule 1 and step K of paragraph 2A of Part 2A of that Schedule shall have effect as if such lower percentages as may be specified in the order were substituted for the percentages for the time being specified in those steps of those paragraphs, or
 - (ii) Parts 1A and 2A of Schedule 1 shall have effect as if they had not been amended by *section 84(1) and (2) of the Act of 2022*,
- or
- (b) requiring the Minister, in consultation with the Minister for Public Expenditure and Reform and the Minister for Housing, Local Government and Heritage to prepare a further report setting out the findings and conclusions of the Minister in relation to the operation of the amendments to this Act effected by *Part 9 of the Act of 2022* in respect of such period as may be specified in the order by such date as may be so specified.
- (2) Subject to subsection (3), where a further report has been prepared by virtue of an order under subsection (1)(b), the Government may, at the request of the Minister and the Minister for Housing, Local Government and Heritage, make an order under subsection (1)(a).
- (3) Before making an order under subsection (1) the Government shall consider whether it would be appropriate to do so having regard to—
- (a) the request referred to in that subsection or, as the case may be, subsection (2), and
 - (b) where the order is to be made following—
 - (i) a report prepared under section 45C(2), that report, and
 - (ii) a further report prepared by virtue of an order under subsection (1)(b), that further report.
- (4) An order under subsection (1)(a)(i) may provide that—
- (a) step K of paragraph 2A of Part 1A of Schedule 1 (so far as relating to the amount produced by step F), and
 - (b) step M of paragraph 2A of Part 2A of that Schedule (so far as relating to the amount produced by step H),
- shall have effect as if such percentages as may be specified in the order were substituted for the percentages for the time being specified in those steps of those paragraphs.
- (5) An order under subsection (1)(a)(ii) may provide that section 24 shall have effect as if the following subsection were substituted for subsection (1) of that section:

- ‘(1) A person (or the person’s care representative, if any) who is the subject of an application for State support or who is provided with financial support or a person who is a family successor shall give notice in writing to the Executive of—
- (a) any material change in circumstances,
 - (b) any change in circumstances that results in eligible rental income becoming, or ceasing to be, payable, or
 - (c) where eligible rental income is payable, any change in the amount of eligible rental income,
- not later than 10 working days after the material change or other change concerned comes to the knowledge of the person.’.
- (6) An order under this section may make such incidental, supplementary, consequential or transitional provision (including provision modifying the effect of this Act) as the Government consider necessary or expedient for the purposes of the order.
- (7) The Minister shall cause a copy of any further report prepared in pursuance of an order under subsection (1)(b) to be laid before each House of the Oireachtas as soon as practicable after it has been prepared.
- (8) An order under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.’.

Amendment of Schedule 1 to Act of 2009

84. (1) Part 1A of Schedule 1 to the Act of 2009 is amended—

- (a) by the substitution of the following paragraph for paragraph 2:

“Assessment of income where no eligible rental income applicable

2. Where there is no eligible rental income, assess the weekly income by following the directions at steps A to E:
- A. Establish the annual income of the person using the definition of ‘income’.
 - B. Deduct allowable deductions.
 - C. Divide amount produced by step B by 52 to establish net weekly income.
 - D. Take 80 per cent of amount produced by step C (net weekly

income) which amount, unless step E applies, is the weekly assessed income.

- E. Where applying the rule in step D produces a result whereby 20 per cent of net weekly income is less than the minimum retained income threshold, the weekly assessed income is the amount established by step C less the minimum retained income threshold.”,

and

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

“Assessment of income where eligible rental income applicable

- 2A. Where there is eligible rental income, assess the weekly income by following the directions at steps A to K:
- A. Establish the annual income of the person using the definition of ‘income’.
 - B. Deduct allowable deductions.
 - C. Divide amount produced by step B by 52.
 - D. Establish the annual eligible rental income of the person.
 - E. Deduct income tax required by law to be deducted or paid in respect of eligible rental income and in respect of which the applicant or any other person is not entitled to claim an exemption, relief or allowance or the repayment of tax already paid.
 - F. Divide amount produced by step E by 52.
 - G. Add amount produced by step C to amount produced by step F to establish net weekly income.
 - H. Take 80 per cent of amount produced by step C.
 - I. Take 40 per cent of amount produced by step F.
 - J. Add amount produced by step H to amount produced by step I which amount, unless step K applies, is the weekly assessed income.
 - K. Where applying the rule in step J produces a result whereby the sum of 20 per cent of the amount produced by step C and 60 per cent of the amount produced by step F is less than the minimum retained income threshold, the weekly assessed income is the amount established by step G less the minimum retained income threshold.”.

(2) Part 2A of Schedule 1 to the Act of 2009 is amended—

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

“Assessment of income where no eligible rental income applicable

2. Where there is no eligible rental income, assess the weekly income by following the directions at steps A to F:
 - A. Establish the annual income of the person and his or her partner using the definition of ‘income’.
 - B. From the annual income of each of those persons deduct allowable deductions applicable to that person’s income to establish net annual income of each member of the couple.
 - C. Aggregate the two net annual incomes established under step B.
 - D. Divide amount produced by step C by 52 to establish net weekly income.
 - E. Take 40 per cent of amount produced by step D and the amount established following that calculation is, unless step F applies, the weekly assessed income.
 - F. Where applying the rule in step E produces a result whereby 60 per cent of net weekly income is less than the minimum retained income threshold, the weekly assessed income is the amount established by step D less the amount which is the minimum retained income threshold.”,

and

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

“Assessment of income where eligible rental income applicable

- 2A. Where there is eligible rental income, assess the weekly income by following the directions at steps A to M:
 - A. Establish the annual income of the person and his or her partner using the definition of ‘income’.
 - B. From the annual income of each of those persons deduct allowable deductions applicable to that person’s income.
 - C. Aggregate the two amounts produced by step B.
 - D. Divide amount produced by step C by 52.
 - E. Establish the amount of annual eligible rental income of the person and his or her partner.
 - F. From the annual eligible rental income of each of those persons deduct income tax required by law to be deducted or paid in respect of eligible rental income and in respect of which the applicant or any other person is not entitled to claim an

exemption, relief or allowance or the repayment of tax already paid.

- G. Aggregate the two amounts produced by step F.
- H. Divide amount produced by step G by 52.
- I. Add amount produced by step D to amount produced by step H to establish net weekly income.
- J. Take 40 per cent of amount produced by step D.
- K. Take 20 per cent of amount produced by step H.
- L. Add amount produced by step J to amount produced by step K which amount, unless step M applies, is the weekly assessed income.
- M. Where applying the rule in step L produces a result whereby the sum of 60 per cent of the amount produced by step D and 80 per cent of the amount produced by step H is less than the minimum retained income threshold, the weekly assessed income is the amount established by step I less the minimum retained income threshold.”.

(3) Part 3 of Schedule 1 to the Act of 2009 is amended—

(a) in paragraph 1—

- (i) in the definition of “income”, in paragraph (b), by the insertion of “(other than eligible rental income)” after “income”, and
- (ii) by the insertion of the following definition:

“ ‘eligible rental income’ means—

- (a) any payments made to a person who is receiving care services or his or her partner in respect of rent under—
 - (i) a tenancy of the principal residence of the person who is receiving care services that is registered under Part 7 of the Residential Tenancies Act 2004, or
 - (ii) a tenancy of the principal residence of the person who is receiving care services where the principal residence is situated within the State and is a dwelling of a type described in any of paragraphs (b) to (e) or (g) to (i) of section 3(2) of that Act,

in respect of a period beginning on or after the day on which *section 84(3)(a)* of the *Act of 2022* comes into operation, and

- (b) any payments made in respect of rent under a tenancy such as is mentioned in subparagraph (i) or (ii) of paragraph (a) in respect of a period beginning on or after the day on which *section 84(3)(a)* of the *Act of 2022* comes into operation

which the person whose means are being assessed would have been entitled to receive in the assessable period, but which by reason of a particular action having been taken by or on behalf of that person, a person other than the person whose means are being assessed has received, is receiving or will receive an amount of money or monies worth (whether by way of a single payment or a series of payments) and which action by the person whose means are being assessed occurred within 5 years of the date of first application for State support but does not include any such payments earned by a family successor in the course of running a family asset;”,

and

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

“2A. For the purposes of the definition of ‘eligible rental income’, the definition of ‘principal residence’ applies notwithstanding that a person is not residing in his or her principal residence because the person is receiving care services.”.

PART 10

AMENDMENT OF AFFORDABLE HOUSING ACT 2021

Interpretation – Part 10

85. In this Part, “Act of 2021” means the Affordable Housing Act 2021.

Provision supplemental to section 41 of Act of 2021

86. The Act of 2021 is amended by the insertion of the following section after section 41:

“41A.(1) Any deed or agreement between the special purpose vehicle and the homeowner which secures the equity share of the special purpose vehicle in a dwelling shall be registrable in the Registry of Deeds as an act of the homeowner affecting the dwelling.

(2) For the avoidance of doubt, the court or, subject to an appeal to the court, the Authority may on an application to it under section 98 of the Act of 1964 make an order or, in the case of an application to the Authority, an entry, under that section inhibiting any registration, on any folio in which a dwelling or any part thereof is registered, under a disposition by, or transmission from, the registered owner without the consent of the special purpose vehicle.

(3) Where, in accordance with the memorandum of agreement referred to in section 41, any deed or agreement between the special purpose

vehicle and the homeowner confers a power of sale of the dwelling on the special purpose vehicle (referred to in this section as a ‘power of sale’), the following provisions shall apply:

- (a) a sale by the special purpose vehicle professed to be in exercise of the power of sale shall operate to convey the dwelling concerned to the purchaser thereof—
 - (i) freed from all estates, interests and rights in respect of which the equity share has priority,
 - (ii) unless discharged by the special purpose vehicle, subject to all estates, interests and rights which have priority over the equity share;
- (b) subject to section 51 of the Act of 1964, a conveyance by the special purpose vehicle to a purchaser vests—
 - (i) the entire estate or interest of the homeowner and the special purpose vehicle in the dwelling in the purchaser freed and discharged from the equity share,
 - (ii) any fixtures included in the dwelling and the sale in the purchaser.
- (4) At any time after the power of sale becomes exercisable, the special purpose vehicle may—
 - (a) demand and obtain from any mortgagee whose mortgage ranks in priority to the equity share particulars of the moneys secured on such mortgage and any ancillary information reasonably necessary to exercise the power of sale, and
 - (b) exercise the power of sale notwithstanding any priority of such mortgage.
- (5) Where a conveyance is made in professed exercise of the power of sale, the title of the purchaser is not impeachable on the ground that the power of sale was not exercisable or was improperly exercised, and a purchaser thereof is not, either before or on conveyance, required to see or inquire whether the power of sale was properly exercised.
- (6) Any person who suffers loss as a consequence of an unauthorised or improper exercise of the power of sale has a remedy in damages against the special purpose vehicle exercising the power.
- (7) Moneys received by the special purpose vehicle that arises from the sale of the dwelling concerned shall be applied in the following order:
 - (a) in discharge of prior incumbrances, if any, to which the sale was not made subject or payment into court of a sum to meet any such prior incumbrances;

- (b) in payment of all charges, costs and expenses properly incurred by the special purpose vehicle as incidental to the sale or any attempted sale or otherwise;
 - (c) in discharge of the equity share and any costs and expenses properly incurred by the special purpose vehicle in any proceedings necessary to recover possession of the dwelling.
- (8) Any residue of the money received by the special purpose vehicle after the discharge of the amount due under subsection (7)(c) shall be held by the special purpose vehicle upon the trusts provided for in section 107(3) of the Land and Conveyancing Law Reform Act 2009 and distributed accordingly.
- (9) In this section—
- ‘Act of 1964’ means the Registration of Title Act 1964;
 - ‘Authority’ means the Property Registration Authority;
 - ‘dwelling’ means a dwelling in which a special purpose vehicle purchases an equity share;
 - ‘equity share’ means an equity share referred to in section 41(1);
 - ‘homeowner’ means the owner of a dwelling;
 - ‘special purpose vehicle’ means a special purpose vehicle referred to in section 41(1) and, in relation to any equity share, includes a successor in title of the special purpose vehicle to such equity share.”.

Amendment of section 12 of Act of 2021

87. Section 12 of the Act of 2021 is amended, in subsection (7)(h)(iii), by the insertion of “or otherwise” after “in accordance with section 13”.

Amendment of section 13 of Act of 2021

88. Section 13 of the Act of 2021 is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) An affordable dwelling purchase arrangement shall be registrable in the Registry of Deeds as an act of the homeowner affecting the dwelling.”,

and

- (b) by the substitution of the following subsection for subsection (2):

“(2) For the avoidance of doubt, the court or, subject to an appeal to the court, the Property Registration Authority may on an application to it under section 98 of the Registration of Title Act 1964 make an order or, in the case of an application to the Authority, an entry, under that

section inhibiting any registration, on any folio in which an affordable dwelling or any part thereof is registered, under a disposition by, or transmission, from, the registered owner without the consent of the housing authority.”.

Amendment of section 16 of Act of 2021

89. Section 16 of the Act of 2021 is amended, in subsection (4), by the substitution of “confirm such redemption and effect the discharge or cancellation of any order or entry referred to in section 13(2)” for “effect the discharge or cancellation of the affordable dwelling purchase arrangement as a burden on the affordable dwelling”.

Amendment of section 17 of Act of 2021

90. Section 17 of the Act of 2021 is amended, in subsection (9), by the substitution of “confirm such payment and effect the discharge or cancellation of any order or entry referred to in section 13(2)” for “effect the discharge or cancellation of the affordable dwelling purchase arrangement as a burden on the affordable dwelling”.

PART 11**Amendment of Residential Tenancies Act 2004****Definition (*Part 11*)**

91. In this Part, ‘Act of 2004’ means the Residential Tenancies Act 2004.

Amendment of section 34 of Act of 2004

92. Paragraphs 4(b), 5(b) and 6(b) of the Table to section 34 of the Act of 2004 are each amended—
- (a) by the deletion of “the contact details requirement is complied with and”, and
 - (b) in subparagraph (ii), by the insertion of “1A,” after “paragraph 1,”.

Amendment of section 35 of Act of 2004

93. (1) Section 35 of the Act of 2004 is amended—
- (a) by the deletion of subsection (5),
 - (b) in subsection (6), by the insertion of “not exceeding 7 days” after “reasonable period”,
 - (c) by the insertion of the following subsection after subsection (6):
 - “(6A) If an offer such as is referred to in paragraph (aa) of subsection (8), or paragraph 4(b), 5(b) or 6(b) of the Table, is not accepted (within such

reasonable period not exceeding 7 days as shall be specified for that purpose in the offer) by the former tenant concerned, there is no tenancy agreement and the former tenant is not entitled to occupy the dwelling.”,

(d) in paragraph (aa) of subsection (8)—

(i) by the deletion of subparagraph (i), and

(ii) in subparagraph (iii), by the insertion of “1A,” after “paragraph 1,”

(e) by the substitution of the following subsection for subsection (11):

“(11) (a) Where, in respect of a tenancy, a landlord serves on a tenant a notice of termination, the landlord shall comply with subsection (1) of section 39A.

(b) A notice of termination referred to in paragraph (a) served in contravention of subsection (1) of section 39A shall be invalid.”,

and

(f) by the insertion of the following subsections after subsection (11):

“(12) Upon receipt of a copy of a notice of termination under section 39A, for the purpose of facilitating the making of an offer referred to in paragraph (aa) of subsection (8), or paragraph 4(b), 5(b) or 6(b) of the Table, the Board shall—

(a) invite the tenant concerned, to confirm or provide, as appropriate, his or her contact details in writing to the Board, and

(b) request the consent of the tenant to the provision of his or her contact details by the Board to the landlord upon request.

(13) Where a landlord is required to make an offer referred to in paragraph (aa) of subsection (8), or paragraph 4(b), 5(b) or 6(b) of the Table, but cannot contact the tenant concerned despite having made reasonable inquiry to ascertain the tenant’s current contact details, he or she shall, for the purpose of making that offer, make a request in writing to the Board seeking the contact details of the tenant.

(14) Where a landlord makes a request under subsection (13), the Board shall—

(a) where the tenant concerned has provided his or her contact details and consent under subsection (12) or pursuant to a notice under paragraph (b), provide the contact details of the tenant to the landlord as soon as practicable on or after the date of the request, or

(b) where the tenant concerned has not provided his or her contact details or consent under subsection (12), as soon as practicable on or after the date of the request, notify the tenant that—

- (i) a request under subsection (13) has been received, and
 - (ii) unless the tenant provides his or her contact details and consent under subsection (12) to the Board within a period of 7 days after the date of the notice, the landlord shall not be required to make an offer under paragraph (aa) of subsection (8), or paragraph 4(b), 5(b) or 6(b) of the Table.
- (15) Where the contact details of a tenant cannot be ascertained by reasonable inquiry by a landlord or by the Board under subsection (12) or (14), the landlord shall not be required to make an offer under paragraph (aa) of subsection (8), or paragraph 4(b), 5(b) or 6(b) of the Table.”.
- (2) The amendments to section 35 of the Act of 2004 under *subsection (1)* shall apply to a notice of termination served on or after the commencement of *subsection (1)*.

Amendment of section 39A of Act of 2004

94. Section 39A of the Act of 2004 is amended—

- (a) in subsection (1), by the deletion of “for failure by the tenant to comply with paragraph (a) of section 16”, and
- (b) in subsection (2), by the insertion of “, the period after which, under section 80, a dispute may not be referred to the Board and give the tenant and the landlord a copy of the statement given under paragraph (e) of subsection (4) of section 135” after “section 76”.

Amendment of section 65 of Act of 2004

95. (1) Section 65 of the Act of 2004 is amended, in subsection (4), by the substitution of “90 days” for “70 days”.
- (2) The amendment of section 65 of the Act of 2004 under *subsection (1)* shall apply to a notice of termination served on or after the commencement of *subsection (1)*.

Amendment of section 66 of Act of 2004

96. (1) Section 66 of the Act of 2004 is amended by the substitution of the following Table for Table 1:

“Termination by Landlord	
Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	90 days
Not less than 6 months but less than one year	152 days
Not less than one year but less than 7 years	180 days
Not less than 7 years but less than 8 years	196 days

Duration of Tenancy (1)	Notice Period (2)
Not less than 8 years	224 days

”.

- (2) The amendment of Table 1 to section 66 of the Act of 2004 under *subsection (1)* shall apply to a period of notice to be given in a notice of termination served by a landlord on a tenant on or after the commencement of *subsection (1)*.
- (3) The Minister shall—
- (a) not earlier than 2 years and not later than 3 years after the coming into operation of *subsection (1)*, commence a review of the operation of the amendments of section 66 effected by that subsection,
 - (b) not later than 6 months after the commencement of the review, prepare a report in writing of the findings of the Minister resulting from the review and his or her conclusions drawn from the findings, and
 - (c) cause a copy of the report referred to in *paragraph (b)* to be laid before each House of the Oireachtas.

Amendment of section 67 of Act of 2004

97. Section 67 of the Act of 2004 is amended by the deletion of subsection (3C).

Amendment of section 80 of Act of 2004

98. (1) The Act of 2004 is amended by the substitution of the following section for section 80—

“80. A dispute relating to the validity of a notice of termination which has been served or purported to be served may not be referred to the Board for resolution at any time after—

- (a) where section 67 or 68 applies, the period of 28 days, or
- (b) in all other cases, the period of 90 days,

has elapsed from the date of receipt of that notice.”.

- (2) The amendment of section 80 of the Act of 2004 under *subsection (1)* shall apply to a notice of termination served on or after the commencement of *subsection (1)*.

Collective citation, construction and commencement of Part 11

99. (1) This Part shall come into operation on the day after the date of the passing of this Act.
- (2) The Residential Tenancies Acts 2004 to 2021 and this Part may be cited together as the Residential Tenancies Acts 2004 to 2022 and shall be construed together as one.

PART 12

Amendment of Housing (Regulation of Approved Housing Bodies) Act 2019

Amendment of section 34 of Housing (Regulation of Approved Housing Bodies) Act 2019

100. Subsection (6) of section 34 of the Housing (Regulation of Approved Housing Bodies) Act 2019 is amended—

- (a) in paragraph (a), by the substitution of “2 years” for “12 months”,
- (b) in paragraph (b), by the substitution of “3 years” for “2 years”,
- (c) in paragraph (c), by the substitution of “4 years” for “3 years”, and
- (d) in paragraph (d), by the substitution of “4 years” for “3 years”.

Commencement of *Part 12*

101. This Part shall come into operation on the day after the date of the passing of this Act.

SCHEDULE 1

PROVISIONS APPLICABLE TO ORAL HEARINGS CONDUCTED UNDER SECTION 49(3)

1. A request by a registered person for an oral hearing under *section 49(3)* shall be made—
 - (a) in writing to the Board, and
 - (b) within the period of 30 days referred to in *section 46(1)(c)(ii)*.
2. The Board shall not consider a request for an oral hearing made later than the expiration of the period referred to in *paragraph 1(b)*.
3. Where the Board refuses a request to conduct an oral hearing, it shall give notice to the registered person of its decision and the reasons for its decision.
4. The Board in conducting an oral hearing may take evidence on oath, and the administration of such an oath by any member of the Board is hereby authorised.
5. The Board may by notice in writing require any person to attend the oral hearing at such time and place as is specified in the notice to give evidence in respect of any matter in issue in the making of the decision under *section 49(2)* or to produce any relevant documents within his or her possession or control or within his or her procurement.
6. Subject to *paragraph 7*, a person referred to in *paragraph 5* may be examined and cross-examined at the oral hearing.
7. A person referred to in *paragraph 5* shall be entitled to the same immunities and privileges in respect of compliance with any requirement referred to in that paragraph as if the person were a witness before the High Court.
8. Where a person referred to in *paragraph 5* does not comply or fully comply with a requirement referred to in that paragraph, the Board may apply in a summary manner to the Circuit Court, on notice to that person, for an order requiring the person to comply or fully comply, as the case may be, with the requirement within a period to be specified by the Court, and the Court may make the order sought or such other order as it thinks fit or refuse to make any order.
9. The jurisdiction conferred on the Circuit Court by *paragraph 8* may be exercised by the judge of that Court for the circuit in which the person concerned ordinarily resides or carries on any profession, business or occupation.
10. An oral hearing shall be considered in public unless the Board of its own motion or on an application by or on behalf of a party to the hearing, determines that, due to the existence of special circumstances, the hearing (or part of it) should be conducted otherwise than in public.
11. The Board may impose restrictions in relation to the disclosure, publication or reporting of any material referred to in an oral hearing that might be commercially sensitive.

12. Where the Board intends to hold an oral hearing, it shall ensure that notice is given to the registered person the subject of the hearing of the date, time and place of any hearing in sufficient time to enable the registered person to prepare for the hearing.
13. In the event that a registered person the subject of an oral hearing (or his or her representative) is not present at the hearing, the Board may proceed with the hearing where it is satisfied that all reasonable efforts have been made to place the registered person on notice of the date and time of the hearing.

SCHEDULE 2

MISCELLANEOUS MATTERS CONCERNING BOARD AND APPEALS COMMITTEE

1. Term of office

- (1) Subject to this Act, a member of the Board or appeals committee shall hold office for a period of up to 4 years, as the Minister considers appropriate from the date of his or her appointment.
- (2) A person may not be appointed to be a member of the Board or appeals committee for more than 2 terms whether consecutive or otherwise.
- (3) A member of the Board or appeals committee may at any time resign from office by letter addressed to the Minister and the resignation shall take effect on the date of the next meeting of the Board or appeals committee.
- (4) A member of the Board or appeals committee shall, unless he or she sooner dies, becomes disqualified from holding office, resigns, is removed from office or otherwise ceases to be a member, hold office as such member until the expiration of his or her term of office.
- (5) The chairperson of the Board or appeals committee shall hold office as chairperson until his or her term of office as a member of the Board or appeals committee expires, unless that person sooner dies, becomes disqualified from holding office, resigns, is removed from office or otherwise ceases to be a member, but, if reappointed as a member, shall be eligible to be designated as the chairperson.

2. Removal from office

- (1) The Minister may remove a member of the Board or appeals committee from office—
 - (a) if he or she is satisfied that one or more of the grounds specified in *subparagraph (2)* apply to the member concerned, or
 - (b) if he or she, having considered a recommendation of the registration body under *subparagraph (3)*, is satisfied that the member should be removed.
- (2) The grounds referred to in *subparagraph (1)* are as follows, namely that the member of the Board or appeals committee concerned:
 - (a) has become incapable through ill health of effectively performing his or her functions;
 - (b) has engaged in serious misconduct;
 - (c) has failed without reasonable cause to perform his or her functions for a continuous period of at least 3 months during the 6 months immediately preceding and ending on the date of the giving of the notice under *subparagraph (4)*;

- (d) has contravened to a material extent a provision of the Ethics in Public Office Acts 1995 and 2001.
- (3) The registration body may, for the purposes of *subparagraph (1)*, recommend to the Minister the removal from office of a member of the Board or the appeals committee if the member has provided works in contravention of this Act, the Act of 1981, the Act of 1990, the Act of 2005 or the relevant environmental legislation, and the Minister shall consider any such recommendation.
- (4) Where the Minister proposes to remove a member of the Board or appeals committee from office under *subparagraph (1)*, he or she shall give notice in writing to the member concerned of the proposal.
- (5) A notice under *subparagraph (4)* shall include a statement—
- (a) of the reasons for the proposed removal from office,
 - (b) that the member concerned may, within a period of 30 working days beginning on the date of the notice or such longer period as the Minister may, having regard to the requirements of natural justice, make representations to the Minister in such form and manner as may be specified by the Minister, as to why the member should not be removed from office, and
 - (c) that where no representations are received within the period referred to in *clause (b)* or the period specified in the notice, as the case may be, the Minister shall, without further notice to the member concerned, proceed with the removal of the member from office in accordance with this paragraph.
- (6) In considering whether to remove a member from office, the Minister shall take into account—
- (a) any representations made pursuant to *clause (b)* of *subparagraph (5)*, within the period referred to in that clause or the period specified in the notice, as the case may be, and
 - (b) any other matter the Minister considers relevant for the purpose of his or her decision.
- (7) The Minister may, if he or she considers it necessary or appropriate to do so, appoint an independent person to—
- (a) hold an inquiry into any matter giving rise to a notification under *subparagraph (4)*, and
 - (b) report to the Minister on the findings of the inquiry.
- (8) An independent person appointed under *subparagraph (7)* to hold an inquiry may do one or more of the following:
- (a) direct a person, by notice delivered to him or her, to provide any information that is specified in the notice and is required for the purposes of the inquiry;

- (b) direct any person, by notice delivered to him or her, to produce at the time and place specified in the notice a document specified in the notice that is relevant to the inquiry and is in the person's power or control;
 - (c) summon witnesses to attend the inquiry;
 - (d) direct a witness to answer a question put to him or her at the inquiry;
 - (e) give any other direction that appears to the person appointed under this section to be necessary, just and reasonable for the purposes of the inquiry;
 - (f) administer oaths and affirmations to witnesses and examine witnesses attending the inquiry.
- (9) If a person fails or refuses to comply with or disobeys a direction or summons under *subparagraph (8)*, the High Court may, on application by the independent person appointed under *subparagraph (7)*—
- (a) order the person in relation to whom the application was made to comply with the direction or, in the case of a summons, to attend the inquiry, and
 - (b) make such other (if any) order as it considers necessary and just to enable the direction to have full effect or, in the case of a summons, to ensure the attendance at the inquiry.
- (10) A person who—
- (a) is given a direction under *subparagraph (8)* and who, without lawful excuse, refuses or fails to comply with a direction under *clause (a)* or *(b)* of *subparagraph (8)*,
 - (b) fails, without lawful excuse, to attend an inquiry in response to a summons under *subparagraph (8)(c)*,
 - (c) refuses to answer a question that the independent person conducting the inquiry may legally direct him or her to answer, or
 - (d) does or omits to do in relation to the inquiry any other thing the doing or omission of which would, if the inquiry had been a proceeding in the High Court, have been contempt of that Court,
- shall be guilty of an offence.
- (11) A statement or admission made by a person pursuant to a direction under *subparagraph (8)* shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under *subparagraph (10)*).
- (12) If an inquiry is held, the Minister shall—
- (a) consider the report on the findings of the inquiry,
 - (b) in a case where the reasons for the proposed removal from office of the member of the Board or appeals committee concerned relate either solely or partially to a matter referred to in *subparagraph (1)(b)*, inform the

registration body of the findings of the inquiry in so far as they relate to those matters,

- (c) make a copy of the report available to the member of the Board or appeals committee whose removal from office is the subject of the report, and
 - (d) give that member of the Board or appeals committee an opportunity to make representations relating to the report.
- (13) Where, having taken into account the matters referred to in *subparagraph (6)*, or, as the case may be, *subparagraph (12)*, the Minister decides to remove the member of the Board or appeals committee from office, he or she shall give notice to the member of the decision and of the reasons for that decision.
- (14) The member of the Board or appeals committee may, within 30 working days beginning on the date of the notice under *subparagraph (13)*, appeal to the High Court against the decision of the Minister.
- (15) On hearing an appeal under *subparagraph (14)*, the High Court may, as it thinks proper, either affirm or overturn the decision concerned.

3. Casual vacancies

- (1) Where a member of the Board or appeals committee dies, becomes disqualified from holding office, resigns, is removed from office or otherwise ceases to be a member, the Minister may appoint a person to be a member of the Board or appeals committee to fill the resultant casual vacancy.
- (2) (a) Any requirement (whether as to consultation, obtaining of another's approval or otherwise) that applies with respect to the nomination of a person for appointment to the Board or the appeals committee shall apply to the nomination of a person for appointment to fill a casual vacancy amongst the membership of the Board or appeals committee.

(b) Where the term of office of a member of the Board or appeals committee terminates otherwise than by reason of the passage of time, the period of office of the person appointed to fill the vacancy occasioned by that other's ceasing to hold office shall be specified to be the unexpired period of that other's term of office.
- (3) Where the Government makes an order under *section 8(2)* pursuant to a request of the Minister under *section 9(2)*, the Board and appeals committee shall be dissolved and a new Board and appeals committee shall be appointed.

4. Meetings

- (1) The Board or appeals committee shall hold such meetings as it considers necessary for the performance of its functions.
- (2) At a meeting of the Board or appeals committee, the chairperson or, in the chairperson's absence a member chosen by those present, shall chair the meeting.

- (3) The chairperson and each other member of the Board or appeals committee shall have a vote.
 - (4) Every question at a meeting of the Board or appeals committee shall be determined by a majority of votes of members present and the chairperson shall have a casting vote in the event of an equal division.
 - (5) The quorum for such a meeting shall be 6 members in the case of the Board and 3 members in the case of the appeals committee, of which, subject to *subparagraph (6)*, the majority shall be members who were nominated for appointment as members of the Board or appeals committee, as the case may be, by the Minister.
 - (6) There may be reckoned for the purposes of that majority the chairperson of the Board or appeals committee, as the case may be, if he or she is present at the meeting.
 - (7) The Board or appeals committee may perform its functions whether or not there is a vacancy in its membership and none of its proceedings are invalidated by any defect in the appointment of a member to it.
 - (8) In relation to the appeals committee, this paragraph shall operate subject to *section 24*.
 - (9) The Registrar and an employee of the registration body may attend a meeting of the Board but shall not be reckoned for the purposes of a quorum.
5. Ceasing to be qualified
- (1) A member of the Board or appeals committee shall cease to be qualified for office and shall cease to hold office if he or she—
 - (a) is adjudicated bankrupt,
 - (b) makes a composition or arrangement with creditors,
 - (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
 - (d) is convicted of any indictable offence in relation to a company or any other body corporate,
 - (e) is convicted of an offence involving fraud or dishonesty,
 - (f) has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
 - (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act.
 - (2) Where a member of the Board or appeals committee is—
 - (a) nominated as a member of Seanad Éireann,

- (b) elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament,
- he or she shall thereupon cease to be a member of the Board or appeals committee.
- (3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a representative in the European Parliament shall be disqualified, while he or she is so entitled or is such a representative, from being a member of the Board or appeals committee.
6. Interest in matter before meeting of Board
- (1) *Subparagraph (2)* applies where at a meeting of the Board any of the following matters arise, namely—
- (a) an arrangement to which the Board is a party,
- (b) an arrangement to which the Board proposes to become a party,
- (c) a contract or other agreement with the Board, or
- (d) a proposed contract or other agreement with the Board.
- (2) Any member of the Board present at the meeting referred to in *subparagraph (1)* who has a pecuniary interest or other beneficial interest in, or material to, the matter concerned shall—
- (a) disclose to the Board at the meeting the fact of that interest and its nature,
- (b) not influence (or seek to influence) a decision to be made in relation to the matter,
- (c) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
- (d) take no part in any deliberation of the governing body relating to the matter, and
- (e) not vote on a decision relating to the matter.
- (3) Where an interest is disclosed pursuant to *subparagraph (2)*, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member of the Board by whom the disclosure is made shall not be counted in the quorum for the meeting.
- (4) Where at a meeting of the Board a question arises as to whether or not a course of conduct, if pursued by a member of the Board would constitute a failure by him or her to comply with the requirements of *subparagraph (2)*, the question may, subject to *subparagraph (5)*, be determined by the chairperson of the meeting,

whose decision shall be final, and where the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

- (5) Where, at a meeting of the Board, the chairperson of the meeting is the member in respect of whom a question to which *subparagraph (4)* applies falls to be determined, the other members of the Board attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

7. Confidential information

- (1) A person shall not, unless he or she is authorised by the Board, disclose confidential information obtained by him or her while performing functions as—
- (a) a member of or an adviser or consultant to the Board or a member of the staff of such an adviser or consultant, or
 - (b) a member of a committee of the Board established under *section 23*.
- (2) A person who contravenes *subparagraph (1)* shall be guilty of an offence.
- (3) Nothing in *subparagraph (1)* shall prevent the disclosure of information—
- (a) in a report made to the Board or appeals committee,
 - (b) by or on behalf of the Board to the Minister,
 - (c) by a member of the Board to the Minister, or
 - (d) by a person in the circumstances referred to in *section 35(2)* of the Ethics in Public Office Act 1995.
- (4) In *subparagraph (1)* “confidential information” includes—
- (a) information that is expressed by the registration body to be confidential either as regards particular information or as regards information of a particular class or description, and
 - (b) proposals of a commercial nature or tenders submitted to the registration body by contractors, consultants or any other person.

8. Application of *paragraph 6* and *7* to committees of Board

Paragraphs 6 and *7* shall apply to a member of a committee of the Board established under *section 23* where the member is not also a member of the Board and for the purposes of that application—

- (a) a reference to a member of the Board shall be construed as reference to a member of the committee, and
- (b) a reference to the Board shall be construed as reference to the committee.

9. Regulation of procedure and rules

[2022.]

*Regulation of Providers of
Building Works and Miscellaneous Provisions Act 2022.*

[No. 15.] SCH.2

- (1) Subject to this Act, the Board shall regulate, by standing orders or otherwise, which may be made, amended or revoked as it sees fit, for the conduct of its procedure and business.
- (2) Standing orders made by the Board under *subparagraph (1)* shall be published on a website maintained by or on behalf of the Board.