



An Bille um Cheadúnú Sábháilteachta Foirgníochta, 2023
Construction Safety Licensing Bill 2023

Mar a leasaíodh sa Roghchoiste um Oideachas, Breisoideachas agus Ardoideachas, Taighde, Nuálaíocht agus Eolaíocht

As amended in the Select Committee on Education, Further and Higher Education, Research, Innovation and Science



AN BILLE UM CHEADÚNÚ SÁBHÁILTEACHTA FOIRGNÍOCHTA, 2023
CONSTRUCTION SAFETY LICENSING BILL 2023

*Mar a leasaíodh sa Roghchoiste um Oideachas, Breisoideachas agus Ardoideachas, Taighde,
Nuálaíocht agus Eolaíocht*

*As amended in the Select Committee on Education, Further and Higher Education, Research,
Innovation and Science*

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SCHEDULE

ACTIVITIES IN RESPECT OF WHICH RELEVANT WORKER LICENCE OR TUTOR LICENCE REQUIRED

ACTS REFERRED TO

Companies Act 2014 (No. 38)

Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 (No. 4)

Legal Services Regulation Act 2015 (No. 65)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c. 93)

Public Service Management (Recruitment and Appointments) Act 2004 (No. 33)

Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022 (No. 15)

Safety, Health and Welfare at Work Act 2005 (No. 10)

Social Welfare Consolidation Act 2005 (No. 26)



AN BILLE UM CHEADÚNÚ SÁBHÁILTEACHTA FOIRGNÍOCHTA, 2023
CONSTRUCTION SAFETY LICENSING BILL 2023

Bill

entitled

An Act to provide for the appointment of a licensing authority for the purposes of licensing workers carrying out certain activities in relation to construction work; to provide for the licensing of tutors providing certain training in relation to construction work; to provide for the establishment and maintenance of a register of licensees; to provide for the investigation and adjudication of complaints against licensees and responsible persons; to establish an appeals committee to determine appeals against certain decisions of the licensing authority; to designate the licensing authority to be the competent authority for the purposes of the European Union (Recognition of Professional Qualifications) Regulations 2017; and to provide for related matters. 5
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Be it enacted by the Oireachtas as follows:

PART 1 15

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Construction Safety Licensing Act 2023.
(2) This Act 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. 20

Definitions

2. In this Act—
“Act of 2005” means the Safety, Health and Welfare at Work Act 2005; 25
“appeals committee” means the appeals committee established under *section 57*;
“code of practice” means a code of practice adopted and published by the licensing authority in accordance with *section 17*, and includes part of a code of practice;
“complainant” has the meaning given to it by *section 46*;

“complaint” has the meaning given to it by <i>section 46</i> ;	
“construction work” shall be construed in accordance with <i>section 3</i> ;	
“final licence examination” has the meaning given to it by <i>section 36(11)</i> ;	
“improper conduct” has the meaning given to it by <i>section 46(1)</i> ;	
“inspector” means a person appointed under <i>section 16</i> to be an inspector;	5
“investigation report” means a report prepared in accordance with <i>section 51</i> ;	
“licence” means a licence granted under <i>Part 5</i> ;	
“licence records”, in relation to an application for a licence, means the records maintained by the licensing authority relating to the application;	
“licensed tutor” means a person who holds a tutor licence;	10
“licensee” means a person to whom a licence has been granted;	
“licensing authority” means the body appointed by order under <i>section 9</i> or <i>10</i> , as the case may be, to perform the functions referred to in <i>section 12</i> ;	
“Minister” means the Minister for Further and Higher Education, Research, Innovation and Science;	15
“new entrant programme” has the meaning given to it by <i>section 35(4)</i> ;	
“personal data” has the same meaning as it has in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 ¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;	20
“personal public service number” means a number allocated and issued in accordance with section 262 of the Social Welfare Consolidation Act 2005;	
“prescribed” means prescribed by regulations made by the Minister under this Act;	
“Professional Qualifications Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);	25
“provisional worker licence” means a provisional worker licence granted under <i>section 38</i> ;	
“register” has the meaning given to it by <i>section 45</i> ;	
“Regulations of 2008” means the Safety, Health and Welfare at Work (Quarries) Regulations 2008 (S.I. No. 28 of 2008);	30
“Regulations of 2013” means the Safety, Health and Welfare at Work (Construction) Regulations 2013 (S.I. No. 291 of 2013);	
“relevant person” has the meaning given to it by <i>section 17(9)</i> ;	
“relevant worker licence” means a provisional worker licence or worker licence;	
“residence” has the meaning given to it by <i>section 3</i> ;	35
“responsible person” has the meaning given to it by <i>section 30</i> ;	

¹ OJ No. L 119, 4.5.2016, p. 1.

“safety awareness registration card” has the meaning given to it by <i>section 35(8)</i> ;	
“scheduled activity” has the meaning given to it by <i>section 28(1)</i> ;	
“SOLAS” means <i>An tSeirbhís Oideachais Leanúnaigh agus Scileanna</i> ;	
“sole trader” has the meaning given to it by <i>section 31</i> ;	
“third country” means a state that is not a Member State;	5
“third party agreement” has the meaning given to it by <i>section 13(1)</i> ;	
“tutor licence” means a tutor licence granted under <i>section 44</i> ;	
“tutor renewal programme” has the meaning given to it by <i>section 43(5)</i> ;	
“website”, in relation to the licensing authority, means a website maintained by or on behalf of the licensing authority;	10
“worker” means an individual who carries out construction work;	
“worker licence” means a worker licence granted under <i>section 38</i> ;	
“worker renewal programme” has the meaning given to it by <i>section 37(5)</i> .	

Construction work: interpretation

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| 3. (1) Subject to <i>subsection (2)</i> , “construction work” means the carrying out of any building, civil engineering or engineering construction work, prescribed by the Minister for Enterprise, Trade and Employment under section 58 of the Act of 2005, or any quarrying operations. | 15 |
| (2) An individual does not carry out construction work for the purposes of this Act where the individual carries out that work on the individual’s own residence. | 20 |
| (3) In this section— | |
| “quarrying operations” shall be construed in accordance with the Regulations of 2008; | |
| “residence”, in relation to an individual, means a dwelling house or part of a dwelling house occupied by the individual as the individual’s only or main residence and includes land which the individual has for the individual’s own occupation and enjoyment with that residence as its garden or grounds. | 25 |

Orders and regulations

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|---|----|
| 4. (1) The Minister may make regulations to provide for any matter referred to in this Act as prescribed or to be prescribed and different regulations may be made in respect of different classes of matter or different classes of person the subject of the prescribing concerned. | 30 |
| (2) Without prejudice to the provisions of this Act, regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations concerned. | |
| (3) Every order (other than an order under <i>section 1(2)</i>) 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 | 35 |

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

5. The expenses incurred by the Minister in the administration of the Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas. 5

Giving of notices

6. (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: 10
- (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; 15
 - (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; 20
 - (e) by electronic means, in a case in which the person has given notice in writing to the sender of the notice of the person's consent to the notice (or notices of a class to which the notice belongs) being given to that person in that manner provided that a record that the notice has been sent to the person is made for the sender by the electronic system used. 25
- (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". 30
- (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. 35

Minister may give directions

7. (1) The Minister may give a direction in writing to the licensing authority for any purpose relating to this Act and concerning the implementation of any policy or objective of the Minister or the Government. 40

- (2) The licensing authority shall comply with any direction given to it under this section.
- (3) The licensing authority shall, within the period, if any, specified by the Minister in the direction concerned, inform the Minister in writing of the measures taken by the licensing authority to comply with the direction.
- (4) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection). 5
- (5) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to a particular application for a licence or particular investigation or appeal before the appeals committee.

Review of operation of Act 10

8. (1) The Minister shall, not later than 3 years after the coming into operation of this section, carry out a review of the operation of this Act.
- (2) The review referred to in *subsection (1)* shall include an evaluation of the effectiveness of this Act and any regulations made under this Act in improving safety on construction sites. 15
- (3) The Minister shall—
- (a) not later than 6 months after the commencement of the review under *subsection (1)*, prepare a report in writing setting out the findings and conclusions consequent on the review, and
 - (b) as soon as practicable after the report is prepared under *paragraph (a)*, cause a copy of it to be laid before each House of the Oireachtas. 20

PART 2

LICENSING AUTHORITY

Appointment of licensing authority

9. (1) The Minister shall, having taken account of any one or more of the matters referred to in *subsection (2)* in relation to a body, by order appoint a body to be the licensing authority to perform the functions conferred on the licensing authority by or under this Act and a body so appointed shall have all powers necessary or expedient for the performance by it of those functions. 25
- (2) The following matters or any of them are the matters which the Minister shall take into account for the purpose of appointing a body by order under *subsection (1)* or *section 10*: 30
- (a) the need for efficiency, effectiveness and economy;
 - (b) the need for sufficient expertise and knowledge relating to construction work;
 - (c) the need for sufficient expertise and knowledge in relation to training; 35
 - (d) the need for the availability of sufficient capacity and resources for the purpose of performing functions conferred on the licensing authority by or under this Act;

- (e) any other matters which, in the opinion of the Minister, are proper matters to be taken into account for the purposes of appointing a body.

Transfer of functions of licensing authority

10. (1) The Minister may, whether on foot of a report under *section 11* or otherwise, and having taken into account one or more of the matters referred to in *section 9(2)*, by order, appoint a body (in this section referred to as the “transferee licensing authority”) to perform the functions conferred on the licensing authority referred to in *section 9(1)*, or, where more than one order has been made under this section, the licensing authority performing the functions conferred on it by or under this Act immediately before the making of the order under this section (in this section referred to as the “transferor licensing authority”), which functions shall stand transferred to the transferee licensing authority. 5 10
- (2) An order under *subsection (1)* may provide that the order shall come into operation on different days for different purposes or different functions.
- (3) Subject to *subsections (4)* and *(5)(i)*, where the functions of the transferor licensing authority stand transferred to a transferee licensing authority, the functions shall no longer be under the direction, control or supervision of the transferor licensing authority. 15
- (4) An order under *subsection (1)* may provide that the transferor licensing authority shall continue to perform any function for a specified period or purpose, or both, and comply with any direction referred to or contained in the order as may appear to the Minister to be necessary or expedient. 20
- (5) Without prejudice to the generality of *subsection (4)*, an order under *subsection (1)* may, in relation to a function being transferred, provide for all or any of the following matters: 25
- (a) transfer of records, data and information;
 - (b) enforcement and continuation in force of leases, licences or permissions to which the transferor licensing authority was a party;
 - (c) enforcement and continuation in force of contracts, agreements or legal proceedings to which the transferor licensing authority was a party; 30
 - (d) transfer of employees or employment contracts from the transferor licensing authority to the transferee licensing authority;
 - (e) transfer of the register;
 - (f) construction of references to the transferor licensing authority as references to the transferee licensing authority; 35
 - (g) preparation of final accounts of the transferor licensing authority;
 - (h) transfer of moneys advanced by the Minister or collected through fees from the transferor licensing authority to the transferee licensing authority;
 - (i) arrangements concerning the continued performance by the transferor licensing authority of particular functions in so far as they relate to matters commenced but not completed before the coming into operation of such order; 40

- (j) such incidental, supplementary and consequential provisions, including concerning remuneration, allowances or pension arrangements for the transferor licensing authority and transferee licensing authority as appear to the Minister to be necessary or expedient.

Review of performance of functions by licensing authority 5

11. (1) The Minister shall appoint a person to carry out periodic inspections, reviews and audits in relation to the performance by the licensing authority of its functions under this Act and to furnish a report to the Minister, and the person so appointed shall carry out such inspections, reviews and audits and furnish such report accordingly.
- (2) The report referred to in *subsection (1)* shall also be furnished to the Oireachtas Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to which there has been duly assigned the role of examining matters relating to education and skills (other than the Committee of Public Accounts, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a sub-committee of such an Oireachtas Committee. 10 15
- (3) Without prejudice to the generality of *section 10*, where the Minister, having considered a report furnished to the Minister under *subsection (1)*, is of the opinion that the licensing authority is not performing one or more than one of its functions under this Act, the Minister may make an order under that section.

Functions of licensing authority 20

12. (1) The licensing authority shall perform the functions conferred on it by or under this Act and shall have all such powers as are necessary or expedient for the performance of those functions.
- (2) Without prejudice to the generality of *subsection (1)*, the licensing authority shall—
- (a) grant and renew, as appropriate, and issue licences in accordance with *Part 5*, 25
- (b) suspend or revoke licences in accordance with *Part 7*,
- (c) inspect the licences of sole traders in accordance with *section 31*,
- (d) appoint examiners for the purposes of *sections 35, 36 and 37*,
- (e) act as the competent authority for the purposes of the recognition of professional qualifications and experience in accordance with Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005² for the purposes of applications under *Part 5*, 30
- (f) recognise, as appropriate, the experience and training of, and qualifications conferred on, persons from third countries for the purposes of applications under *Part 5*, 35
- (g) establish, maintain and publish the register in accordance with *section 45*,
- (h) establish procedures or rules, as the case may be, for the performance of its functions in accordance with this Act,

2 OJ No. L255, 30.9.2005, p. 22

- (i) monitor and enforce compliance with this Act,
 - (j) appoint inspectors and, where appropriate, investigate and prosecute alleged offences under this Act,
 - (k) provide the Minister, in such form and manner and within such period as the Minister may specify, with such information or advice as the Minister may request in relation to any matter relating to its functions as the Minister may specify, 5
 - (l) undertake or commission, or collaborate or assist in, research projects and activities relating to construction work, including the compilation of statistical information and other records, 10
 - (m) develop in consultation with such other bodies as it considers appropriate, information and education campaigns aimed at improving safety standards among licensees, and
 - (n) charge and recover fees in respect of the performance by it of its functions.
- (3) The licensing authority shall, at such intervals as the Minister may direct, and may, at such other time as the licensing authority decides, carry out a review of the performance by it of its functions under this Act and shall, not later than 2 months after it has concluded such a review, provide a report to the Minister in that regard. 15
- (4) The licensing authority may, of its own volition and at any time, provide advice to the Minister in relation to any matter relating to its functions. 20
- (5) The Minister may confer on the licensing authority, by order, such additional functions connected with the functions for the time being of the licensing authority as the Minister considers appropriate, subject to such conditions (if any) as may be specified in the order.
- (6) An order under *subsection (5)* may contain such incidental, supplemental and consequential provisions as may, in the opinion of the Minister, be necessary to give full effect to the order. 25
- (7) The licensing authority may establish procedures and rules to facilitate the performance by it of its functions under this Act.
- Licensing authority may enter into arrangements, etc. with third parties** 30
- 13.** (1) With the approval of the Minister, the licensing authority may, for the purpose of performing its functions, make arrangements, or enter into agreements including service level agreements or contracts, with a third party for that party to perform on behalf of the licensing authority (with or without payment) any of its functions (in this section referred to as a “third party agreement”). 35
- (2) Where a third party agreement is entered into by the licensing authority—
- (a) the agreement shall be in force for a period of not less than 3 years and may, at the request of either party, be subject to review during that period,
 - (b) the agreement shall be published by the licensing authority on its website within 3 months of being entered into, 40

- (c) the licensing authority shall publish on its website any changes to the agreement arising from any review carried out in accordance with *paragraph (a)* within 3 months of such changes being made,
 - (d) the third party concerned shall, not later than 3 months before the end of each year during which the third party agreement is in force, or at the request of the licensing authority at such other intervals as it may specify, prepare a report on the implementation of the agreement and the licensing authority may, if it considers it appropriate, publish the report on its website, 5
 - (e) the licensing authority shall take such measures as it considers appropriate to determine whether the third party is adequately carrying out its obligations under the agreement, and 10
 - (f) the third party shall provide the necessary resources for the performance of the agreement.
- (3) Where a third party, in the opinion of the licensing authority, has failed to perform all or a significant or material part of its obligations under a third party agreement, the licensing authority shall, without delay, put in place such arrangements as it considers necessary for the performance of the agreement. 15
 - (4) The licensing authority may make a special report to the Minister in cases of full or significant non-performance of a third party agreement and the Minister shall cause a copy of such a report to be laid before each House of the Oireachtas. 20

Advances to licensing authority

- 14. In each financial year, the Minister may advance to the licensing authority out of moneys provided by the Oireachtas such sums as the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may determine for the purposes of expenditure by the licensing authority in the performance of its functions under this Act. 25

Licensing authority may charge and recover fees

- 15. (1) The licensing authority shall specify on its website, the fees to be charged and paid to it in respect of the performance by—
 - (a) the licensing authority of its functions, 30
 - (b) a third party, with which the licensing authority has entered into a third party agreement, of its obligations under the agreement, and
 - (c) the appeals committee of its functions.
- (2) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe matters to be taken into account by the licensing authority in determining— 35
 - (a) when fees may be specified and charged, and
 - (b) different fees to be specified and charged in respect of different classes of licence under this Act.

- (3) The licensing authority shall not specify fees under this section unless the licensing authority has consulted with and obtained the consent of the Minister.
- (4) Without prejudice to the generality of *subsection (1)*, the licensing authority's power to specify fees includes the power to provide for exemptions from the payment of fees or the waiving, remitting or refunding of fees (in whole or in part), in different circumstances or classes of circumstances or in different cases or classes of cases. 5
- (5) The licensing authority 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 licensing authority in respect of a fee charged under this Act.
- (6) This section shall apply to any fees required under this Act to be specified by the licensing authority. 10

Appointment by licensing authority of inspectors

16. (1) For the purposes of ensuring compliance with this Act, the licensing authority may appoint—
- (a) such members of its staff as it considers appropriate to be inspectors for such period and purposes and subject to such terms as the licensing authority may determine, and 15
 - (b) such other persons as it considers appropriate to be inspectors for such period and such purposes and subject to such terms (including terms as to remuneration and allowances for expenses) as the licensing authority may determine. 20
- (2) Subject to *subsection (3)*, the licensing authority may revoke the appointment of an inspector appointed under *subsection (1)* whether or not the appointment was for a fixed period.
- (3) An appointment under *subsection (1)* ceases—
- (a) if the inspector resigns the appointment, 25
 - (b) if it is revoked under *subsection (2)*,
 - (c) if it is for a fixed period, on the expiry of that period, or
 - (d) if the person appointed is a member of staff of the licensing authority, on the person ceasing to be a member of staff.
- (4) Nothing in *subsection (3)* shall be construed so as to prevent the licensing authority from reappointing as an inspector a person to whom *subsection (3)* relates. 30
- (5) An inspector shall be furnished with a certificate of his or her appointment by the licensing authority.
- (6) When exercising a power conferred on an inspector under *Part 7*, 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. 35

Code of practice

17. (1) (a) Subject to *subsection (2)*, the licensing authority shall prepare and adopt a code of practice for the purpose of providing practical guidance to relevant persons in relation to the application and operation of this Act and any regulations made under it in so far as this Act and those regulations relate to such relevant persons. 5
- (b) A code of practice so prepared and adopted under *paragraph (a)* shall also include provisions relating to the manner in which personal data shall be processed by the licensing authority, and any inspectors appointed by it, in the performance of their functions under this Act.
- (2) The licensing authority shall consult with, and obtain the consent of, the Minister before adopting a code of practice under *subsection (1)*. 10
- (3) Where the licensing authority adopts a code of practice, it shall—
- (a) publish the code as so adopted on its website, and
- (b) publish a notice in *Iris Oifigiúil*—
- (i) identifying the code as so published, and 15
- (ii) specifying the date (being a date after the date of publication of such notice) on which the code shall come into operation.
- (4) The licensing authority may, with the consent of the Minister and following consultation with any other person that the licensing authority considers appropriate or as the Minister directs, amend or revoke any code of practice adopted and published by it under this section. 20
- (5) (a) Where the licensing authority amends a code of practice adopted and published in accordance with this section, it shall—
- (i) publish the code as so amended on its website, and
- (ii) publish a notice in *Iris Oifigiúil*— 25
- (I) identifying the code as so published, and
- (II) specifying the date (being a date after the date of publication of such notice) on which the code as so amended shall come into operation.
- (b) Where the licensing authority revokes a code of practice adopted and published in accordance with this section, it shall publish a notice in *Iris Oifigiúil* and on its website— 30
- (i) identifying the code as so revoked, and
- (ii) specifying the date on which the revocation shall come into operation.
- (6) For the purposes of *subsection (7)*, a code of practice, including any amendments thereto, adopted and published in accordance with this section shall be admissible in evidence in proceedings under this Act in respect of an alleged contravention by a relevant person of a requirement imposed under this Act where at the time of the alleged contravention the code— 35
- (a) was in operation, and

- (b) provided practical guidance to the relevant person concerned in relation to the matter which is the subject of that alleged contravention.
- (7) Where it appears to the appeals committee or a court, as the case may be, in proceedings before it that—
 - (a) a provision of a code of practice, or 5
 - (b) a failure to follow the guidance in a code of practice,
 is relevant to a question arising in such proceedings, the provision or failure, as the case may be, shall be taken into account in deciding the question.
- (8) A document purporting to be a copy of, and to have been certified by an employee of the licensing authority, designated in that behalf by the licensing authority, to be a true copy of, a code of practice adopted and published in accordance with this section or an extract from such a code, shall, unless the contrary is proved, be admitted in evidence in any proceedings and be evidence of the matters specified therein without further proof. 10
- (9) In this section, “relevant person” means a worker, a responsible person, a tutor or a licensee. 15

Reports

- 18.** (1) The licensing authority shall, not later than 30 June in each year, prepare and furnish to the Minister a report (in this section referred to as the “annual report”) on the performance by— 20
- (a) the licensing authority of its functions,
 - (b) any third party, with which the licensing authority has entered into a third party agreement, of its obligations under the agreement, and
 - (c) the appeals committee of its functions,
- under this Act in the immediately preceding year. 25
- (2) The Minister shall, as soon as practicable, cause a copy 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 licensing authority considers appropriate or as the Minister may direct. 30
 - (4) The licensing authority may prepare and furnish such other reports to the Minister on the performance of its functions as it considers appropriate.
 - (5) The licensing authority shall give to the Minister such other information as the Minister may require in respect of any or all of—
 - (a) the performance by the licensing authority, any third party referred to in *subsection (1)* and the appeals committee of their respective functions or obligations, as the case may be, under this Act and their respective policies in respect of such performance, 35
 - (b) any document or account prepared by the licensing authority, 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 the coming into operation of an order under *section 9* or *10*, as the case may be, and ending on the following 31 December shall be deemed to be the previous year referred to in *subsection (1)*. 5
- (7) If, under *subsection (1)* or, where applicable, *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 licensing authority during that period and the financial year of the licensing authority immediately following that period, and the licensing authority 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. 10
- (8) The licensing authority shall publish, including on its website, its annual report in such form as it considers appropriate not later than 30 days after *subsection (2)* has been complied with in respect of the report.
- (9) The licensing authority may publish such other reports on matters related to its activities and functions under this Act as it may from time to time consider appropriate. 15

PART 3

MEDICAL REVIEW COMMITTEE FOR SCHEDULED CONSTRUCTION SECTOR ACTIVITIES

Establishment of Medical Review Committee for Scheduled Construction Sector Activities 20

- 19. (1) The licensing authority shall, not later than 6 months after the coming into operation of this section, establish a committee to be known as the Medical Review Committee for Scheduled Construction Sector Activities (in this Part referred to as the “Committee”).
- (2) The secretariat and the executive functions relating to the work of the Committee shall be provided by the licensing authority. 25

Membership of Committee

- 20. (1) The Committee shall consist of not less than 5 members to be appointed by the licensing authority and of whom—
 - (a) at least one is a representative of the licensing authority, 30
 - (b) at least one is a person who, in the opinion of the licensing authority, is qualified, and has expertise, in occupational health and safety,
 - (c) at least one is a representative of workers in the construction sector, and
 - (d) at least one is a representative of employers in the construction sector.
- (2) The licensing authority shall designate one member of the Committee as chairperson. 35
- (3) A member of the Committee shall be subject to such terms and conditions, and be paid such allowances for expenses, as the Minister, with the consent of the Minister

- for Public Expenditure, National Development Plan Delivery and Reform, may determine.
- (4) If the chairperson is for any reason unable to continue to act as chairperson, the licensing authority may designate another member of the Committee to act as chairperson. 5
- (5) A member of the Committee shall hold office for such period, not exceeding 3 years from the date of his or her appointment, as the licensing authority shall determine.
- (6) Subject to *subsection (7)*, a member of the Committee whose term of office expires by the effluxion of time shall be eligible for reappointment to the Committee.
- (7) A member of the Committee who has served 2 consecutive terms of office shall not be eligible for reappointment to the Committee until a period of 3 years has elapsed following the end of the second consecutive term. 10
- (8) A member of the Committee may resign from the Committee by letter addressed to the licensing authority, and the resignation shall take effect on the date specified in the letter, or the date on which the licensing authority receives the letter, whichever is the later. 15
- (9) A member of the Committee may at any time be removed from membership of the Committee by the licensing authority if, in the licensing authority's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the licensing authority to be necessary for the effective performance by the Committee of its functions. 20
- (10) A member of the Committee shall cease to be, and shall be disqualified from being, a member of the Committee where such member—
- (a) on conviction on indictment by a court of competent jurisdiction, is sentenced to a term of imprisonment, 25
- (b) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act, or
- (c) is convicted of an offence under the Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022. 30
- (11) Where a member of the Committee dies, resigns, is removed from office or otherwise ceases to hold office—
- (a) the casual vacancy arising shall be filled by a person appointed in the same manner as the member of the Committee who occasioned the vacancy was appointed, and 35
- (b) the person appointed to fill the casual vacancy shall hold office for that period of the term of office of the member who occasioned that vacancy that remains unexpired at the date of that person's appointment, and may, in accordance with *subsection (6)*, be reappointed to the Committee. 40
- (12) The licensing authority shall determine the procedures of the Committee.

Functions of Committee

21. (1) The Committee shall have the following functions:
- (a) to evaluate, and keep under review, the need, if any, for medical certification for the purposes of the carrying out by a person of a scheduled activity;
 - (b) to provide the licensing authority with a report in writing of any evaluation or review referred to in *paragraph (a)* within such period of time and in such manner as may be specified by the licensing authority; 5
 - (c) where the Committee identifies a need for medical certification referred to in *paragraph (a)*, to make recommendations to the licensing authority in that behalf, as soon as practicable after it has identified such a need; 10
 - (d) such other functions as the Minister may prescribe.
- (2) The licensing authority shall, as soon as practicable and not later than 2 months after the date on which it receives a report referred to in *subsection (1)(b)*, provide the report to the Minister.

Reports to licensing authority 15

22. (1) The Committee shall—
- (a) not later than 30 April in the year next following the first complete calendar year after the date on which the Committee is established under *section 19*, prepare and submit to the Minister a report in writing (in this section referred to as the “annual report of the Committee”) in relation to the performance of its functions during the period since its establishment, and 20
 - (b) not later than 30 April in each subsequent year, prepare and submit to the licensing authority a report (in this section also referred to as the “annual report of the Committee”) in relation to the performance of its functions during the preceding calendar year. 25
- (2) An annual report of the Committee shall include such particulars (including all proper and usual accounts of money received or expended by it) as the Committee may determine to be appropriate to include in the report or as may be directed by the licensing authority.
- (3) The licensing authority shall, not later than 2 months after the date on which it receives an annual report of the Committee, provide the report to the Minister. 30

Laying of reports referred to in *sections 21* and *22* before Houses of Oireachtas and publication

23. Where the Minister receives a report referred to in *section 21(1)(b)* or *22*, he or she shall, as soon as practicable, thereafter— 35
- (a) cause a copy of the report to be laid before each House of the Oireachtas, and
 - (b) having laid a copy of the report as provided for by *paragraph (a)*, cause a copy of it to be published on a website maintained by or on behalf of the Minister.

Dissolution of Committee

24. The licensing authority may, with the consent of the Minister, dissolve the Committee at any time.

PART 4

RECOGNITION OF FOREIGN QUALIFICATIONS

5

Designation of licensing authority as competent authority for purposes of Professional Qualification Regulations

25. (1) The licensing authority is designated, as on and from the day on which it is appointed by order as such under *section 9* or *10*, as the case may be, as the competent authority, for the purposes referred to in *subsection (2)*. 10
- (2) The licensing authority shall, on and after the day referred to in *subsection (1)*, 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—
- (a) workers in respect of the carrying out of scheduled activities, or 15
- (b) tutors in respect of the delivery of training in relation to the carrying out of scheduled activities.
- (3) Unless otherwise specified in this Act, nothing in this Act shall be construed to prejudice the performance by the licensing authority of its functions under the Professional Qualifications Regulations as the competent authority in respect of— 20
- (a) workers in respect of the carrying out of scheduled activities as a regulated profession (within the meaning of Regulation 3 of those Regulations), or
- (b) tutors in respect of the delivery of training in relation to the carrying out of scheduled activities as a regulated profession (within the said meaning).

Recognition of third country qualifications, etc.

25

26. The licensing authority shall, for the purposes of applications under *Part 5*, recognise, as appropriate and in accordance with the processes and procedures specified under *section 27*, the experience and training of, and qualifications conferred on, persons from third countries.

Licensing authority to specify processes and procedures relating to foreign qualifications, etc.

30

27. The licensing authority shall specify on its website the processes and procedures in place for the recognition of training, experience and foreign qualifications of persons from other Member States or third countries for the purposes of *section 35(7)*, *section 36(8)*, *(9)* and *(10)*, and *section 42(6)*. 35

PART 5

LICENSING

CHAPTER 1

Activities in respect of which requirement to hold licence applies

Activities in respect of which requirement to hold licence applies	5
28. (1) (a) A worker who, in the course of carrying out construction work, carries out the activities referred to in the <i>Schedule</i> (in this section referred to as “scheduled activities”) shall hold a valid relevant worker licence before carrying out any of those activities.	
(b) A person who delivers training in relation to the carrying out by a worker of scheduled activities shall hold a valid tutor licence before delivering that training.	10
(2) The Minister may—	
(a) on the advice of the licensing authority,	
(b) following consultation with—	
(i) the Minister for Enterprise, Trade and Employment,	15
(ii) the Health and Safety Authority,	
(iii) the Construction Industry Registration Body, and	
(iv) such other persons as the Minister considers appropriate,	
and	
(c) having regard to the matters referred to in <i>subsection (4)</i> ,	20
prescribe activities carried out in the course of carrying out construction work to be added to, or removed from, the <i>Schedule</i> .	
(3) The licensing authority may, following consultation with such representatives of the construction sector as it considers appropriate, and having had regard to the matters set out in <i>subsection (4)</i> , give advice to the Minister for the purposes of <i>subsection (2)</i> .	25
(4) For the purposes of prescribing an activity under <i>subsection (2)</i> , the matters to which the Minister and the licensing authority are to have regard are—	
(a) developments in the health and safety requirements relating to the activity,	
(b) technical developments and other innovations relating to the activity,	30
(c) the potential impact on employment levels and opportunities of prescribing the activity,	
(d) the outcome of consultations carried out by the Minister or the licensing authority, or both, as the case may be, under this section, and	
(e) such other matters as the Minister or the licensing authority, as the case may be, consider appropriate for the purposes of this section.	35

Workers to hold valid relevant worker licence

29. (1) Subject to *subsection (2)*, a worker shall not carry out a scheduled activity unless the worker holds a valid relevant worker licence in respect of that activity. 5
- (2) *Subsection (1)* shall not apply where the scheduled activity is carried out by a worker in relation to the worker’s own residence.

Certain persons to ensure worker holds valid relevant worker licence

30. (1) Subject to *subsection (2)*, a person (in this Act referred to as a “responsible person”) who engages a worker, whether pursuant to a contract of employment or a contract for services or otherwise, to carry out a scheduled activity shall ensure that— 10
- (a) before the worker carries out the scheduled activity, and
- (b) while the worker carries out that activity,
- the worker holds a valid relevant worker licence in respect of that activity.
- (2) *Subsection (1)* does not apply in respect of an individual who has engaged a worker to carry out construction on the individual’s own residence. 15
- (3) A person who contravenes *subsection (1)* shall be guilty of an offence.

Licensing authority to inspect licences of sole traders

31. (1) The licensing authority shall, at such intervals as it considers appropriate, inspect the licences of workers who are sole traders for the purposes of ensuring compliance with *section 29*. 20
- (2) In this section, “sole trader” means an individual who owns and operates a business, whether or not the individual has employees, and is registered as a self-employed person with the Revenue Commissioners.

Categories of licences for which worker may apply

25

32. A worker may apply to the licensing authority—
- (a) under *section 35*, for a provisional worker licence, or
- (b) under *section 36*, for a worker licence,
- as the case may be.

Provisional worker licence

30

33. A provisional worker licence—
- (a) shall be valid for a period of 2 years from the date on which it is issued,
- (b) may not be renewed,

- (c) shall not be granted to a person under the age of 16 years, and
- (d) may be subject to such conditions, if any, as the licensing authority decides to attach to the licence under *section 38*.

Worker licence

34. A worker licence— 5

- (a) shall be valid for a period of 5 years from the date on which it is issued,
- (b) may be renewed in accordance with *section 37*, and
- (c) shall not be granted to a person under the age of 16 years.

Application for provisional worker licence

35. (1) An application for a provisional worker licence shall be in writing and in such form and manner, including in electronic form, as the licensing authority may specify and shall include— 10

- (a) proof of the identity, address and age of the applicant,
- (b) a photograph of the applicant taken within the period of 6 months ending on the date on which the application is made, 15
- (c) details of the scheduled activity in respect of which the application is made,
- (d) the personal public service number of the applicant, if applicable,
- (e) evidence, in such form and manner as may be specified by the licensing authority, that the applicant—

(i) has successfully completed the new entrant programme, and 20

(ii) holds a valid safety awareness registration card,

(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 on the applicant 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 2005, within the previous 10 years, and 25

(g) the fee specified under *section 15* in respect of the application.

(2) At any time after receiving an application, the licensing authority may, for the purpose of determining the application, by notice given to the applicant, request the applicant to provide additional information to it and may seek independent verification of any document or information furnished by the applicant under this section and where a request is made under this section the application shall not be considered further, or be considered to have been duly made, until the applicant complies with the request. 30

(3) Details of an applicant's personal public service number referred to in *subsection (1)(d)* may be entered and retained by the licensing authority in the licence records relating to the application under this section. 35

- (4) The licensing authority shall establish and maintain a programme (in this Act referred to as the “new entrant programme”) for the purposes of an application under this section and shall, for the purpose of that programme, appoint suitably qualified examiners to conduct any examinations that may form part of such a programme.
- (5) The Minister shall, following consultation with— 5
- (a) the licensing authority,
 - (b) the Minister for Enterprise, Trade and Employment,
 - (c) the Health and Safety Authority,
 - (d) the Construction Industry Registration Body,
 - (e) such representatives of the construction sector as the Minister considers 10 appropriate, and
 - (f) such other persons as the Minister considers appropriate,
- prescribe the requirements, including requirements as to the form and content, of the new entrant programme, including any training, courses or examinations to be undertaken for the purposes of that programme. 15
- (6) The requirements prescribed under *subsection (5)* shall include a requirement to provide instruction in construction-related health and safety knowledge and for the practical demonstration, through examinations or otherwise, of that knowledge by persons participating in a new entrant programme.
- (7) For the purposes of *subsection (1)(e)(i)*, an applicant may furnish to the licensing 20 authority evidence of having successfully completed a programme or training in another Member State or third country and where the licensing authority is satisfied that that programme or training is of a standard equivalent to the new entrant programme it shall accept evidence of the completion of such programme or training in lieu of evidence of the completion of the new entrant programme. 25
- (8) In this section, “safety awareness registration card” means—
- (a) the Safe Pass registration card issued following the successful completion of the Safe Pass training programme provided by SOLAS, or
 - (b) a registration card issued in association with a scheme in a Member State, other 30 than the State, or in a third country, where SOLAS has approved the scheme as being equivalent to the Safe Pass training programme.

Application for worker licence

- 36.** (1) An individual may apply to the licensing authority for a worker licence in respect of a scheduled activity.
- (2) An application for a worker licence shall be in writing and in such form and manner, 35 including in electronic form, as the licensing authority may specify and shall include—
- (a) proof of the identity, address and age of the applicant,

- (b) a photograph of the applicant taken within the period of 6 months ending on the date on which the application is made,
 - (c) details of the scheduled activity in respect of which the application is made,
 - (d) the personal public service number of the applicant, if applicable,
 - (e) evidence, in such form and manner as may be specified by the licensing authority, 5
that the applicant—
 - (i) subject to *subsection (10)* and *section 63(1)*, holds a valid provisional worker licence in respect of the scheduled activity to which the application relates,
 - (ii) has successfully completed the final licence training programme,
 - (iii) has successfully completed 6 months of certified monitored training, 10
 - (iv) has successfully completed the final licence examination, and
 - (v) holds a valid safety awareness registration card,
 - (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 on the applicant either within the State, or 15
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 2005, within the previous 10 years, and
 - (g) the fee specified under *section 15* in respect of the application.
- (3) At any time after receiving an application, the licensing authority may, for the purpose 20
of determining the application, by notice given to the applicant, request the applicant to provide additional information to it and may seek independent verification of any document or information furnished by the applicant under this section and where a request is made under this section the application shall not be considered further, or be considered to have been duly made, until the applicant complies with the request. 25
- (4) Details of an applicant’s personal public service number referred to in *subsection (2)(d)* may be entered and retained by the licensing authority in the licence records relating to the application under this section.
- (5) The licensing authority shall, for the purposes of *subsection (2)*—
- (a) establish and maintain a programme (in this Act referred to as the “final licence 30
training programme”) for the purposes of an application under this section,
 - (b) set the final licence examination, and
 - (c) appoint suitably qualified examiners to conduct the final licence examination and any examinations that form part of the final licence training programme.
- (6) The Minister shall, following consultation with— 35
- (a) the licensing authority,
 - (b) the Minister for Enterprise, Trade and Employment,
 - (c) the Health and Safety Authority,

- (d) the Construction Industry Registration Body,
 - (e) such representatives of the construction sector as the Minister considers appropriate, and
 - (f) such other persons as the Minister considers appropriate,
- prescribe— 5
- (i) for the purposes of *subsection (2)(e)(ii)* and *(iv)*, the requirements, including requirements as to the form and content, of—
 - (I) the final licence training programme, including any training, courses or examinations required to be undertaken for the purposes of that programme, and 10
 - (II) the final licence examination,
 and
 - (ii) for the purposes of *subsection (2)(e)(iii)*, the manner in which monitored training is to be carried out and certified and the requirements to be satisfied by an applicant for the purposes of demonstrating his or her successful completion of certified monitored training. 15
- (7) The requirements prescribed under *subsection (6)(i)* shall include a requirement that the final licence examination shall consist of a written and practical test designed to provide evidence of an applicant’s theoretical and practical competency in respect of the scheduled activity to which the application concerned relates. 20
- (8) For the purposes of *subsection (2)(e)(iii)*, an applicant may furnish to the licensing authority evidence of having successfully completed training in another Member State or third country and where the licensing authority is satisfied that such training is of a standard equivalent to certified monitored training it shall accept evidence of successful completion of that training in lieu of evidence of the completion of certified monitored training. 25
- (9) For the purposes of *subsection (2)(e)(iv)*, an applicant may furnish evidence of having passed any examination in another Member State or third country and where the licensing authority is satisfied that such examination is of a standard equivalent to the final licence examination, it shall accept evidence of the passing of that first-mentioned examination in lieu of evidence of successful completion of the final licence examination. 30
- (10) An applicant from another Member State or third country who does not have a provisional worker licence but who would otherwise be eligible to apply for a worker licence shall not, by reason only of not having a provisional worker licence, be refused a worker licence. 35
- (11) In this section, “certified monitored training”, in respect of the scheduled activity to which the application concerned relates, means training carried out and certified in the prescribed manner.

Renewal of worker licence

37. (1) At any time during the period beginning not earlier than 6 months immediately before the expiry of a worker licence, a worker may apply to the licensing authority to renew the worker licence.
- (2) An application to renew a worker licence shall be in writing and in such form and manner, including in electronic form, as the licensing authority may specify and shall include—
- (a) proof of the identity, address and age of the applicant,
 - (b) a photograph of the applicant taken within the period of 6 months ending on the date on which the application is made, 10
 - (c) details of the scheduled activity in respect of which the application is made,
 - (d) the personal public service number of the applicant, if applicable,
 - (e) evidence in such form and manner as may be specified by the licensing authority that the applicant—
 - (i) holds a valid worker licence in respect of the scheduled activity to which the application relates, 15
 - (ii) has successfully completed—
 - (I) a worker renewal programme, and
 - (II) during the period of the validity of the licence in respect of which renewal is sought, such continuous training, carried out in such manner and at such intervals, as are prescribed under *subsection (6)*, in so far as that training relates to the applicant, 20
- and
- (iii) holds a valid safety awareness registration card,
 - (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 on the applicant 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 2005, in the period from the date of the making of the application for the grant of the licence in respect of which renewal is sought, and 25 30
 - (g) the fee specified under *section 15* in respect of the application.
- (3) At any time after receiving an application, the licensing authority may, for the purpose of determining the application, by notice given to the applicant, request the applicant to provide additional information to it and may seek independent verification of any document or information furnished by the applicant under this section and where a request is made under this section the application shall not be considered further, or be considered to have been duly made, until the applicant complies with the request. 35
- (4) Details of an applicant's personal public service number referred to in *subsection (2)(d)* may be entered and retained by the licensing authority in the licence records relating to the application under this section. 40

- (5) The licensing authority shall, for the purposes of *subsection (2)*, establish and maintain a programme (in this section referred to as the “worker renewal programme”) and shall, for that purpose, appoint suitably qualified examiners to conduct any examinations that form part of that programme.
- (6) The Minister shall, following consultation with— 5
- (a) the licensing authority,
 - (b) the Minister for Enterprise, Trade and Employment,
 - (c) the Health and Safety Authority,
 - (d) the Construction Industry Registration Body,
 - (e) such representatives of the construction sector as the Minister considers 10 appropriate, and
 - (f) such other persons as the Minister considers appropriate,
- prescribe—
- (i) for the purposes of *subsection (2)(e)(ii)(I)*, the requirements, including requirements as to the form and content, of the worker renewal programme and any training, courses or examinations to be undertaken for the purposes of that programme, and 15
 - (ii) for the purposes of *subsection (2)(e)(ii)(II)*, the training to be carried out, and the manner in which, and the intervals at which, it is to be carried out, during the period of validity of a worker licence. 20

Decision in relation to application made under *section 35, 36 or 37*

38. (1) The licensing authority shall, not later than 3 months after the date of receipt of an application duly made under *section 35, 36 or 37*, as the case may be, decide to—
- (a) grant the relevant worker licence, with or without conditions attached to it in accordance with *subsection (3)* where the relevant worker licence concerned is a provisional worker licence, or refuse to grant the relevant worker licence, or 25
 - (b) renew or refuse to renew the worker licence,
- in respect of which the application is made.
- (2) The licensing authority shall, subject to *sections 33(c)* and *34(c)* and *subsection (4)*, grant an application duly made under *section 35, 36 or 37*, as the case may be. 30
- (3) The licensing authority may, in respect of a decision to grant an application for a provisional worker licence, decide to attach such conditions to the provisional worker licence as it considers appropriate, including conditions requiring the holder of the provisional worker licence, when carrying out the scheduled activity to which the application relates, to be supervised by the holder of a worker licence in respect of that scheduled activity for the purpose of ensuring the safe carrying on by the holder of the provisional worker licence of that scheduled activity. 35

- (4) The licensing authority may refuse to grant an application duly made under *section 35, 36 or 37*, as the case may be, where, having regard to any conviction of the applicant under the Act of 2005, it considers it appropriate to do so.
- (5) Notwithstanding *sections 35(1), 36(2) and 37(2)*, the licensing authority may grant a worker licence to an applicant from another Member State or a third country in accordance with *subsections (8), (9) and (10) of section 36* and the processes and procedures specified in that behalf under *section 27*. 5
- (6) Where, under *subsection (1)*, the licensing authority decides to grant a relevant worker licence or to renew a worker licence, the licensing authority shall issue the licence, in such form as it considers appropriate, including in electronic form, to the applicant. 10
- (7) An applicant to whom a relevant worker licence has been granted shall carry out the scheduled activity to which the licence relates in accordance with the licence and shall, for the duration of the licence, carry out continuous training in such manner and at such intervals as are prescribed under *section 37(6)(ii)*.
- (8) Where the licensing authority proposes to refuse to grant a relevant worker licence or to renew a worker licence, it shall give notice to the applicant of its proposed decision as soon as practicable after it is made and that notice shall set out the reasons for the proposed decision and shall include a copy of *sections 56 and 58*. 15

CHAPTER 3

Tutors 20

Tutors to hold valid tutor licence

- 39. (1) An individual who wishes to deliver training—
 - (a) in respect of any programme or examination, including courses or training to be undertaken for the purposes of such programmes or examinations, or any other training (other than certified monitored training) prescribed for the purposes of an application under *Part 5*, and 25
 - (b) for the purposes of an application referred to in *paragraph (a)*,
 shall hold a valid tutor licence in respect of that training.
- (2) An individual who contravenes *subsection (1)* shall be guilty of an offence.

Licence for which persons may apply to be tutor 30

- 40. An individual referred to in *section 39* may, for the purposes of that section, apply to the licensing authority under *section 42* for a tutor licence.

Tutor licence

- 41. A tutor licence—
 - (a) shall be valid for a period of 2 years from the date on which it is issued, 35
 - (b) may be renewed in accordance with *section 43*, and

- (c) shall not be granted to a person under the age of 16 years.

Application for tutor licence

42. (1) An application for a tutor licence shall be in writing and in such form and manner, including in electronic form, as the licensing authority may specify and shall include— 5
- (a) proof of the identity, address and age of the applicant,
 - (b) a photograph of the applicant taken within the period of 6 months ending on the date on which the application is made,
 - (c) details of the manner in which the applicant proposes to deliver the training in respect of which the application is made and, to the extent to which the training relates to a scheduled activity, details of that activity, 10
 - (d) the personal public service number of the applicant, if applicable,
 - (e) evidence, in such form and manner as may be specified by the licensing authority, that the applicant—
 - (i) holds a valid worker licence in respect of the scheduled activity which is to be the subject of the training in respect of which the application is made, and 15
 - (ii) has successfully completed the tutor new entrant programme,
 - (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 on the applicant 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 2005, within the previous 10 years, and 20
 - (g) the fee specified under *section 15* in respect of the application.
- (2) At any time after receiving an application, the licensing authority may, for the purpose of determining the application, by notice given to the applicant, request the applicant to provide additional information to it and may seek independent verification of any document or information furnished by the applicant under this section and where a request is made under this section the application shall not be considered further, or be considered to have been duly made, until the applicant complies with the request. 25 30
- (3) Details of an applicant's personal public service number referred to in *subsection (1)(d)* may be entered and retained by the licensing authority in the licence records relating to the application under this section.
- (4) The licensing authority shall establish and maintain a programme (in this Act referred to as the "tutor new entrant programme") for the purposes of an application under this section and shall appoint suitably qualified examiners to conduct any examinations that may form part of the tutor new entrant programme. 35
- (5) The Minister shall, following consultation with—
- (a) the licensing authority,
 - (b) the Minister for Enterprise, Trade and Employment, 40

- (c) the Health and Safety Authority,
- (d) the Construction Industry Registration Body,
- (e) such representatives of the construction sector as the Minister considers appropriate, and
- (f) such other persons as the Minister considers appropriate, 5

prescribe the requirements, including requirements as to the form and content, of the tutor new entrant programme and any training, courses or examinations to be successfully taken for the purposes of that programme.

- (6) For the purposes of *subsection (1)(e)*, an applicant may furnish to the licensing authority evidence of having successfully completed any training or course or having passed any examination in another Member State or third country and where the licensing authority is satisfied that such training, course or examination, as the case may be is, in its opinion, equivalent to the tutor new entrant programme or any training, course or examination prescribed for the purposes of that programme, it shall accept evidence of the successful completion of that course or training or the successful passing of that examination, as the case may be, in lieu of successful completion of the programme, training, course or examination, as the case may be, prescribed under *subsection (5)*. 10 15

Renewal of tutor licence

- 43. (1) At any time during the period beginning not earlier than 6 months immediately before the expiry of a tutor licence in respect of a scheduled activity, a tutor may apply to the licensing authority for the tutor licence concerned to be renewed. 20
- (2) An application to renew a tutor licence shall be in writing and in such form and manner, including in electronic form, as the licensing authority may specify and shall include: 25
 - (a) proof of the identity, address and age of the applicant;
 - (b) a photograph of the applicant taken within the period of 6 months ending on the date on which the application is made;
 - (c) details of the manner in which the applicant proposes to deliver the training in respect of which the application is made and, to the extent to which the training relates to a scheduled activity, details of that activity; 30
 - (d) the personal public service number of the applicant, if applicable;
 - (e) evidence, in such form and manner as may be specified by the licensing authority, that the applicant—
 - (i) holds a valid tutor licence in respect of the scheduled activity to which the application relates, and 35
 - (ii) has successfully completed—
 - (I) a tutor renewal programme, and
 - (II) during the period of the validity of the licence in respect of which renewal is sought, such continuous training, carried out in such manner 40

and at such intervals, as may be prescribed under *subsection (6)*, in so far as that training relates to the applicant;

- (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 on the applicant 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 2005, within the period from the date of the making of the application for the grant of the licence in respect of which renewal is sought; and 5
 - (g) the fee specified under *section 15* in respect of the application. 10
- (3) At any time after receiving an application, the licensing authority may, for the purpose of determining the application, by notice given to the applicant, request the applicant to provide additional information to it and may seek independent verification of any document or information furnished by the applicant under this section and where a request is made under this section the application shall not be considered further, or be considered to have been duly made, until the applicant complies with the request. 15
- (4) Details of an applicant’s personal public service number referred to in *subsection (2)(d)* may be entered and retained by the licensing authority in the licence records relating to the application under this section.
- (5) The licensing authority shall, for the purposes of *subsection (2)*, establish and maintain a tutor renewal programme (in this Act referred to as the “tutor renewal programme”) for the purposes of an application under this section and shall appoint suitably qualified examiners to conduct any examinations that may form part of the tutor renewal programme. 20
- (6) The Minister shall, following consultation with— 25
- (a) the licensing authority,
 - (b) the Minister for Enterprise, Trade and Employment,
 - (c) the Health and Safety Authority,
 - (d) the Construction Industry Registration Body,
 - (e) such representatives of the construction sector as the Minister considers appropriate, and 30
 - (f) such other persons as the Minister considers appropriate,
- prescribe—
- (i) for the purposes of *subsection (2)(e)(ii)(I)*, the requirements, including requirements as to the form and content, of the tutor renewal programme and any training, courses or examinations to be successfully taken for the purposes of that programme, and 35
 - (ii) for the purposes of *subsection (2)(e)(ii)(II)*, the training to be carried out, and the manner in which and the intervals at which it is to be carried out, during the period of validity of a tutor licence. 40

Decision in relation to application made under *section 42 or 43*

44. (1) The licensing authority shall, not later than 3 months after the date of receipt of an application duly made under *section 42 or 43*, as the case may be, decide to—
- (a) grant or refuse to grant, or
 - (b) renew or refuse to renew,
- the tutor licence in respect of which the application is made. 5
- (2) The licensing authority may refuse to grant an application duly made under *section 42 or 43*, as the case may be, where, having regard to any conviction of the applicant under the Act of 2005, it considers it appropriate to do so.
- (3) Notwithstanding *section 42(1)*, the licensing authority may grant a tutor licence to an applicant from another Member State or third country in accordance with *section 42(6)* and the processes and procedures specified in that behalf under *section 27*. 10
- (4) Where, under *subsection (1)*, the licensing authority decides to grant or renew a tutor licence, the licensing authority shall issue the licence, in such form, including in electronic form, as it considers appropriate, to the applicant and the applicant shall carry out the training concerned in accordance with the licence. 15
- (5) Where the licensing authority proposes to refuse to grant or renew a tutor licence, it shall give notice to the applicant of its proposed decision not later than 7 days after it is made, and that notice shall set out the reasons for the proposed decision and shall include a copy of *sections 56 and 58*. 20

PART 6

REGISTER OF LICENSEES

Register of licensees

45. (1) The licensing authority shall, not later than 6 months after the coming into operation of this section, establish and maintain for the purposes of this Act a register of licensees (in this Act referred to as the “register”). 25
- (2) The register shall be maintained in such form as the licensing authority considers appropriate, including in electronic form, and shall include—
- (a) the names of licensees and such other identifying particulars (including a registration number) as the licensing authority considers appropriate, 30
 - (b) the scheduled activities in respect of which a licensee is licensed, and
 - (c) such other information as the licensing authority considers appropriate.
- (3) The register shall be divided into different divisions in such manner as the licensing authority shall determine by rules.
- (4) A division of the register may be divided into such subdivisions in such manner as the licensing authority may determine by rules and a reference in this Act to a division shall be construed as including, as necessary, a reference to a subdivision. 35

- (5) The licensing authority shall make the register available for inspection free of charge by members of the public, on its website in such a manner that the section of that website which contains the register is readily accessible by members of the public.
- (6) A copy of an entry in the register shall, on request, be issued by the licensing authority on payment of such fee in respect of the provision of the copy as may be specified by the licensing authority under *section 15*. 5
- (7) In any legal proceedings, a certificate signed by an officer of the licensing authority stating that a person—
- (a) is registered in the register or in a specified division,
 - (b) is not registered in the register or in a specified division, 10
 - (c) was, at a specified date or during a specified period, registered in the register or in a specified division,
 - (d) was not, at a specified date or during a specified period, registered in the register or in a specified division, or
 - (e) has never been registered in the register, 15
- shall, without proof of the signature of the person purporting to sign the certificate, be evidence, unless the contrary is proved, of the matters stated in the certificate.
- (8) The licensing authority shall ensure that the register is accurate and, for that purpose, the licensing authority shall make any alteration that is required to be made in the information contained in an entry. 20
- (9) The licensing authority shall, not later than 30 days after making an alteration under *subsection (8)*, give notice of that fact to the licensee to whom the alteration relates.
- (10) A licensee shall, in relation to the entry in the register relating to the licensee, give notice in writing to the licensing authority of—
- (a) any error that the licensee knows of in the entry, and 25
 - (b) any change in circumstances that is likely to have a bearing on the accuracy of the entry,
- not later than 30 days after the licensee becomes aware of that error or change in circumstances, as the case may be, and the licensing authority shall consider the notice and, not later than 30 days after it has received the notice, make any alteration 30 to the register as it considers necessary.

PART 7

ENFORCEMENT

CHAPTER 1

Complaints and Investigations

Complaints

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46. (1) A person (in this Chapter referred to as the “complainant”) may make a complaint in writing (in this Chapter referred to as a “complaint”) to the licensing authority concerning—
- (a) an alleged offence under *section 61(1)(a)*, or
 - (b) an alleged contravention, other than a contravention that is an offence under *section 61(1)(a)*, of a provision of this Act, 10
in this Part referred to as “improper conduct”.
- (2) Where the licensing authority receives a complaint, it shall refer the matter to an inspector for investigation unless—
- (a) insufficient information is provided with the complaint to enable the licensing authority to form a view as to whether the complaint should be investigated, 15
 - (b) the licensing authority is satisfied that the complaint is not made in good faith,
 - (c) the licensing authority 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 20
 - (e) subject to *subsection (4)*, following the making of such inquiries as the licensing authority considers appropriate, it is satisfied that the complaint is likely to be resolved by mediation or other informal means between the complainant and licensee or responsible person, as the case may be, to whom the complaint relates. 25
- (3) Where the licensing authority decides that a complaint falls within any of *paragraphs (a) to (e) of subsection (2)*, it shall give notice to the complainant and the licensee or responsible person, as the case may be, 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 the complainant’s discretion, make a fresh complaint in respect of the matter the subject of the first-mentioned complaint. 30

Investigations

47. (1) Subject to *section 46(2)*, the licensing authority—
- (a) shall, on receipt of a complaint, or may of its own volition, cause such investigation as it considers appropriate to be carried out under this Chapter, and 35

- (b) shall, for the purposes of the investigation, appoint an inspector, subject to such terms as the licensing authority considers appropriate—
 - (i) to carry out the investigation, and
 - (ii) to submit to the licensing authority an investigation report in accordance with *section 51* following the completion of the investigation. 5
- (2) The licensing authority 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. 10
- (4) Where a complaint is withdrawn by a complainant before the investigation report which relates to the complaint has been submitted to the licensing authority under *section 51(2)*, the licensing authority may proceed as if the complaint had not been withdrawn if it is satisfied that there is good and sufficient reason for so doing. 15
- (5) Where the licensing authority proceeds under *subsection (4)* as if a complaint had not been withdrawn, the licensing authority shall inform the complainant and the investigation concerned shall thereupon be treated as an investigation initiated by the licensing authority of its own volition, and the other provisions of this Act shall be construed accordingly. 20

Suspension of licence pending investigation

- 48. (1) The licensing authority may, where it considers it appropriate to do so, suspend, in whole or in part, a licence pending the outcome of an investigation under this Part. 25
- (2) The licensing authority shall not suspend, in whole or in part, a licence under *subsection (1)* unless it is satisfied, having regard to the nature and extent of the alleged improper conduct, that the health and safety of a person is likely to be prejudiced by the alleged improper conduct unless the licence is so suspended.
- (3) Where the licensing authority proposes to suspend a licence, the inspector appointed to carry out the investigation shall give notice of the proposal, together with the reasons for the proposal and a copy of *sections 56* and *58*, to the licensee concerned at the same time as the inspector gives a notice of the investigation to the licensee under *section 49*, and *sections 56* and *58* shall apply in respect of the proposal accordingly. 30
- (4) A licence that is suspended under *subsection (1)* is not a valid licence for the purposes of *section 29(1)*, *30(1)* or *39(1)* to the extent to which it is so suspended. 35

Notice of investigation

- 49. (1) Where the licensing authority 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 licensing authority of a complaint, give notice to the licensee or responsible person, as the case may be, to whom the complaint relates of the receipt of the complaint and setting out particulars of the complaint,
- (b) if the investigation is carried on at the volition of the licensing authority, give notice to the licensee or responsible person, as the case may be, concerned of the matters to which the investigation relates, and 5
- (c) in the case of an investigation referred to in *paragraph (a)* or *(b)*—
 - (i) give the licensee or responsible person, as the case may be—
 - (I) a copy of any documents relevant to the investigation, and 10
 - (II) a copy of this Part,
 - and
 - (ii) without prejudice to the generality of *section 50*, afford to the licensee or responsible person, as the case may be, an opportunity to respond, within 30 days beginning on the date on which the licensee or responsible person, as the case may be, 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 and where a notice referred to in *paragraph (b)* has been given, to the notice. 15
- (2) Where an investigation arises in consequence of the receipt by the licensing authority of a complaint, the inspector appointed to carry out the investigation shall— 20
 - (a) at the same time as it issues the notice referred to in *subsection (1)(a)*, give the complainant a copy of that notice, and
 - (b) make reasonable efforts to keep the complainant informed of the progress of the investigation. 25

Powers of inspectors

- 50.** (1) For the purposes of the performance by an inspector of his or her functions under this Act, an inspector may—
- (a) subject to *subsections (13)* and *(14)*, at all reasonable times enter, inspect, examine and search any premises at which— 30
 - (i) a licensee carries out, or as the case may be, carries out training in respect of, a scheduled activity, or
 - (ii) a responsible person engages a worker, whether pursuant to a contract of services or otherwise, to carry out a scheduled activity,
 as the case may be, 35
 - (b) subject to *subsections (13)* and *(14)*, require any licensee or responsible person, as the case may be, 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 40

- or accounts or other documents so produced or require a person to provide a copy of them or of any entries in them to the inspector),
- (c) without prejudice to any other power conferred by this subsection, require any licensee or responsible person, as the case may be, to afford such facilities and assistance within the licensee's or responsible person's, as the case may be, control or responsibilities as are reasonably necessary to enable the inspector to exercise any of the powers conferred on the inspector under *paragraph (a) or (b)*, 5
 - (d) 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 10
 - (e) be accompanied by a member of An Garda Síochána if there is reasonable cause to apprehend any serious obstruction in the exercise of any powers conferred on the inspector under this subsection. 15
- (2) A requirement under *paragraph (b), (c) or (d) of subsection (1)* shall specify a period within which, or a date and time by 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— 20
 - (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, 25
 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 considers it appropriate, 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. 30
- (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 35
 - (b) as the inspector concerned considers appropriate—
 - (i) the place at which the person shall attend to give the information or to which the person shall deliver the records, plans, reports, books, accounts or other documents, or
 - (ii) the place to which the person shall send the information or the records, plans, reports, books, accounts or other documents concerned. 40

- (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 licensing authority, apply in a summary manner to the Circuit Court for an order under *subsection (7)*. 5
 - (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. 10
 - (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. 15
 - (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. 20
 - (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 the person would be exempt from producing in proceedings in a court on the ground of legal professional privilege. 25
 - (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. 30
 - (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 35
 - (ii) an inspector, in the exercise of any powers conferred on the inspector under *subsection (1)*, has been prevented from entering the premises or any part thereof,
- or 40

(b) it is necessary that the inspector enter a private dwelling and exercise therein any of the inspector's 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, or private dwelling, as the case may be, and exercise all or any such powers. 5

(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, 10

(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 exercise of the inspector's powers under this section, 15

shall be guilty of an offence.

(16) In this section—

“premises” includes any vessel, aircraft, vehicle and any other means of transport, as well as land and any other fixed or moveable structure;

“records, plans, reports, books or accounts” includes copies of records, plans, reports, books or accounts. 20

Investigation report

51. (1) Where an inspector has completed an investigation, and considered any information or documents provided to the inspector pursuant to any requirement under *section 50*, the inspector shall, not later than 30 days after the date on which he or she has completed the investigation— 25

(a) prepare a draft of the investigation report, and

(b) give to the licensee or responsible person, as the case may be, to whom the investigation relates and, if the investigation arose in consequence of the receipt of a complaint, the complainant— 30

(i) a copy of the draft of the investigation report,

(ii) a copy of this section, and

(iii) a notice stating that the licensee or responsible person, as the case may be, 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. 35

(2) An inspector who has complied with *subsection (1)* shall, not later than 21 days after—

- (a) the expiration of the period referred to in *subsection (1)(b)(iii)* or any extension of that period, 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 5
 - (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 with any such submissions annexed to the report and, other than where *sections 52 to 54* apply, submit it to the licensing authority with any such submissions annexed to the report. 10
- (3) An investigation report prepared by an inspector following the completion of the investigation concerned shall be in writing and shall—
- (a) state that the inspector is, as appropriate—
 - (i) satisfied that improper conduct by the licensee or responsible person, as the case may be, the subject of the investigation has occurred or is occurring, or 15
 - (ii) not so satisfied,
 - (b) if *paragraph (a)(i)* is applicable, state the grounds on which the inspector is so satisfied, and
 - (c) if *paragraph (a)(ii)* is applicable, state— 20
 - (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 person is warranted and, if warranted, the inspector’s opinion on the principal matters to which the further investigation should relate. 25

Improvement plan - tutors

52. (1) Where an inspector is of the opinion, following an investigation under this Part, that—
- (a) improper conduct referred to in *section 46(1)(b)* has occurred, and
 - (b) the contravention alleged to constitute that improper conduct was a contravention committed by a tutor, 30
- the inspector may, before giving the investigation report to the licensing authority, give a direction in writing to the tutor concerned to submit an improvement plan to the inspector.
- (2) A tutor to whom a direction is given under *subsection (1)* shall comply with the direction and that direction shall— 35
- (a) identify the improper conduct to which the opinion relates,

- (b) require the submission to the inspector, within a period of 30 days, of an improvement plan in such form and manner, including in electronic form, as the inspector may direct specifying the remedial action proposed to be taken,
 - (c) require the tutor to implement the plan from the date on which it is submitted, and 5
 - (d) include any other requirements that the inspector considers necessary.
- (3) Within 2 months of receipt of an improvement plan in accordance with *subsection (2)*, the inspector shall review the plan and its implementation.
- (4) The inspector shall, within 30 days of completion of the review referred to in *subsection (3)*, confirm by notice given to the tutor — 10
- (a) that the inspector is satisfied that the improvement plan is being implemented, or
 - (b) that the inspector is not satisfied that the improvement plan is being implemented and issue an improvement notice under *section 53* to the tutor.

Improvement notice

53. (1) Where an inspector is of the opinion, following an investigation conducted under this Part in that behalf, that a licensed tutor has failed to comply with a direction under *section 52*, the inspector may serve a notice in writing (in this section referred to as an “improvement notice”) on the licensed tutor. 15
- (2) An improvement notice shall—
- (a) state that the inspector is of the opinion referred to in *subsection (1)*, 20
 - (b) state the reasons for that opinion,
 - (c) include directions as to the measures to be taken to remedy any non-compliance or matter to which the notice relates or to otherwise comply with the notice,
 - (d) direct the licensed tutor to remedy the non-compliance or the matters occasioning that notice by a date specified in the notice, that shall not be earlier than the end of the period within which an appeal may be made under *subsection (6)*, 25
 - (e) include information regarding the making of an appeal under *subsection (6)*,
 - (f) include any other requirement that the inspector considers appropriate, and
 - (g) be signed and dated by the inspector.
- (3) A licensed tutor on whom an improvement notice has been served and who is of the opinion that the improvement notice has been complied with shall confirm in writing to the inspector that the matters referred to in the notice have been remedied. 30
- (4) Where a licensed tutor on whom an improvement notice has been served confirms in writing to the inspector in accordance with *subsection (3)* that the matters referred to in the improvement notice have been remedied, the inspector shall, on being satisfied that the matters have been so remedied, within one month of receipt of such confirmation, give notice in writing to the tutor concerned of compliance with the improvement notice. 35

- (5) If the inspector is not satisfied in accordance with *subsection (4)*, the inspector shall, subject to *subsection (10)*, issue a prohibition notice under *section 54* to the licensed tutor concerned.
- (6) A licensed tutor aggrieved by an improvement notice may, within 14 days beginning on the day on which the notice is served on the tutor, appeal against the notice to the appeals committee under *section 58* and, in determining the appeal, the appeals committee may, if it is satisfied that it is reasonable to do so, confirm, vary or cancel the notice. 5
- (7) A tutor who appeals under *subsection (6)* shall at the same time notify the licensing authority of the appeal and the grounds for the appeal and the licensing authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal. 10
- (8) Where an appeal is made under *subsection (6)*, and the notice is not cancelled, the notice shall take effect on the later of—
- (a) the day next following the day on which the notice is confirmed or varied on appeal or the appeal is withdrawn, or 15
 - (b) the day specified in the notice.
- (9) Where there is no appeal under *subsection (6)*, the notice shall take effect on the later of—
- (a) the end of the period for making an appeal, or
 - (b) the day specified in the notice. 20
- (10) An inspector may—
- (a) withdraw an improvement notice at any time, or
 - (b) where no appeal is made or pending under *subsection (6)*, extend the period specified under *subsection (2)(d)*,
- and shall give notice to the tutor concerned of any such withdrawal or extension, as the case may be. 25

Prohibition notice

54. (1) Where an inspector is of the opinion, following an investigation conducted under this Part in that behalf, that the licensed tutor has not complied with an improvement notice, the inspector may give a notice in writing (in this Act referred to as a “prohibition notice”) to the tutor concerned. 30
- (2) A prohibition notice shall—
- (a) state that the inspector is of the opinion referred to *subsection (1)*,
 - (b) state the reasons for that opinion,
 - (c) prohibit the carrying on of, as applicable, the scheduled activity or training activity concerned for such period until the matters which give rise to the non-compliance are remedied, 35
 - (d) include directions as to the measures to be taken to remedy any non-compliance or matter to which the notice relates or to otherwise comply with the notice,

- (e) include information regarding the making of an appeal under *subsection (3)*,
 - (f) include any other requirement that the inspector considers appropriate, and
 - (g) be signed and dated by the inspector.
- (3) A licensed tutor aggrieved by a prohibition notice may, within a period of 14 days beginning on the day on which the notice is served on the tutor, appeal against the notice to the appeals committee under *section 58* and, in determining the appeal, the appeals committee may, if it is satisfied that it is reasonable to do so, confirm, vary or cancel the notice. 5
- (4) A person who appeals under *subsection (3)* shall at the same time notify the licensing authority of the appeal and the grounds for the appeal and the licensing authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal. 10
- (5) Where an appeal under *subsection (3)* is made, and the notice is not cancelled, the notice shall take effect on the later of—
- (a) the day next following the day on which the notice is confirmed or varied on appeal or the appeal is withdrawn, or 15
 - (b) the day specified in the notice.
- (6) Where no appeal under *subsection (3)* is made, the notice shall take effect on the later of—
- (a) the end of the period for making an appeal, or
 - (b) the day specified in the notice. 20
- (7) An inspector may—
- (a) withdraw a prohibition notice at any time, or
 - (b) where no appeal is made or pending under *subsection (3)*, extend the period referred to in that subsection,
- and shall give notice to the tutor concerned of any such withdrawal or extension, as the case may be. 25
- (8) The inspector shall notify the licensing authority—
- (a) when the inspector issues a prohibition notice,
 - (b) where the inspector withdraws a prohibition notice, and
 - (c) where an appeal is made in respect of a prohibition notice. 30
- (9) A person to whom a prohibition notice has been given who fails to comply with, or causes or permits another person to fail to comply with, the notice shall be guilty of an offence.
- (10) If the inspector is not satisfied that a prohibition notice has been complied with, the inspector shall submit— 35
- (a) the investigation report and any submissions attached thereto to which the improvement plan and improvement notice preceding the issuing of the prohibition notice relate, and

- (b) the inspector’s recommendations, in accordance with *subsection (11)*,
to the licensing authority for the purposes of a determination by it under *section 55*.
- (11) An inspector may, for the purposes of *subsection (10)*, recommend to the licensing authority that it—
 - (a) suspend, in whole or in part, for a specified period, or revoke, the tutor licence, or 5
 - (b) prosecute the tutor for failing to comply with the prohibition notice,
or both, and shall give reasons for that recommendation.

Decision following receipt of investigation report

- 55.** (1) On receipt of an investigation report submitted to it by an inspector under *section 51(2)* or *54(10)*, the licensing authority shall consider the report and any submissions annexed to it, and, in the case of a report submitted under *section 54(10)*, the recommendation of the inspector. 10
- (2) Subject to *subsection (3)*, where the licensing authority has considered the investigation report, any submissions annexed to it and, where applicable, the recommendation of the inspector, the licensing authority— 15
- (a) if it is satisfied that improper conduct by the licensee or responsible person, as the case may be, to whom the investigation report relates has occurred or is occurring, shall, as it considers appropriate in the circumstances of the case, subject to *subsection (6)* and *section 58*—
 - (i) impose a minor sanction on the licensee or responsible person, as the case may be, or 20
 - (ii) impose a major sanction on the licensee,
 - (b) if it is not satisfied that improper conduct by the licensee or responsible person, as the case may be, to whom the investigation report relates has occurred or is occurring but is of the opinion that a further investigation of the licensee or responsible person, as the case may be, is warranted, shall cause the further investigation to be carried out pursuant to its powers under *section 47(1)*, or 25
 - (c) if it is not satisfied that improper conduct by the licensee or responsible person, as the case may be, to whom the investigation report relates has occurred or is occurring but is not of the opinion that a further investigation of the licensee or responsible person, as the case may be, is warranted, take no further action and, where the investigation arose from a complaint, shall dismiss the complaint. 30
- (3) Where the licensing authority has considered an investigation report and any submissions annexed to it under *section 51(2)* or a report and any submissions annexed to it and any recommendation under *section 54(11)*, it may if requested to do so by the licensee or responsible person, as the case may be, 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— 35
- (a) conduct an oral hearing, or

- (b) give to the licensee or responsible person, as the case may be, 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 licensee or responsible person, as the case may be, 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 licensing authority allows, each make submissions in writing to the licensing authority on the investigation report. 5
- (4) The licensing authority shall determine how an oral hearing under *subsection (3)(a)* is conducted. 10
- (5) The licensing authority shall give notice to the licensee or responsible person, as the case may be, to whom the investigation relates of a decision under *subsection (2)* not later than 7 days after the date on which the decision is made, which shall—
 - (a) include the reasons for the decision, 15
 - (b) where the decision is under *subsection (2)(a)*, inform the licensee or responsible person, as the case may be, that—
 - (i) the licensee or responsible person, as the case may be, may, under *section 58*, appeal the decision within 14 days beginning on the date of the notice, and
 - (ii) the appeal shall specify the grounds for the appeal, 20
 - 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 58*. 25
- (6) If, on the expiration of the period of 14 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 58* has been made, the decision of the licensing authority under *subsection (2)(a)* shall be final.
- (7) If, following an appeal of a decision under *subsection (2)(a)*, the appeals committee remits the matter to the licensing authority under *section 58(7)(b)* for reconsideration, the decision in respect of which the appeal was made shall be suspended until it has been reconsidered by the licensing authority. 30
- (8) The licensing authority may, where it considers it appropriate and having regard to the need for fairness in the conduct of such investigations and proceedings, in particular the need to address conflicts of interest which may arise in investigations or proceedings, establish procedures for— 35
 - (a) dealing with complaints,
 - (b) the conduct of investigations under this Part, and
 - (c) proceedings before the licensing authority under this section and *section 56*.

- (9) In this section—
- “major sanction” means—
- (a) the suspension of a licence, in whole or in part, until compliance by the licensee with a condition to which termination of the suspension is subject,
 - (b) the revocation of a licence, 5
 - (c) any combination of any of the sanctions specified in *paragraphs (a) and (b)*;
- “minor sanction” means—
- (a) advice,
 - (b) a reprimand,
 - (c) a caution, or 10
 - (d) any combination of any of the sanctions specified in *paragraphs (a) to (c)*.

CHAPTER 2

Representations and appeals

Representations

- 56.** (1) An applicant under *section 35, 36, 37, 42 or 43* who has been given notice of a proposal to refuse to grant or renew a licence or a person who has been given notice of a proposal to suspend a licence under *section 48* may, within 14 days beginning on the date of the notice, make representations to the licensing authority about the proposal. 15
- (2) The licensing authority shall have regard to any representations made to it under *subsection (1)* in deciding whether to proceed with the proposal and, having considered such, if any, representations, shall make its decision and shall give notice to the applicant or licensee, as the case may be, of its decision and the reasons for the decision, which notice shall also state that— 20
- (a) an appeal against that decision may be made under *section 58*, within 14 days beginning on the date of the notice, and 25
 - (b) the decision shall be suspended until, as the case may be—
 - (i) the decision becomes final under *subsection (3)*, or
 - (ii) the disposal of an appeal under *section 58*.
- (3) If, on the expiration of 14 days beginning on the date of the notice under *subsection (2)*, no appeal under *section 58* has been made, the decision of the licensing authority under *section 38, 44 or 48*, as the case may be, shall be final. 30
- (4) Where an appeal is not made within the period referred to in *subsection (3)*, the decision takes effect upon the expiration of that period.
- (5) Where an appeal is made under *section 58*, the appellant shall at the same time notify in writing the licensing authority of the appeal. 35

- (6) The licensing authority may establish and maintain procedures to be followed with regard to making representations under this section as it considers necessary or expedient and any such procedures may provide for the holding of oral hearings where the licensing authority is satisfied it is appropriate to do so.

Appeals committee

5

57. (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 licensing authority.
- (3) The chairperson of the appeals committee shall be a practising solicitor or practising barrister (both within the meaning of the Legal Services Regulation Act 2015). 10
- (4) When appointing a person to be an ordinary 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) construction skills, education and training; 15
- (b) general skills, education and training;
- (c) health and safety matters relating to construction.
- (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)*. 20
- (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 the chairperson 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. 25
- (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. 30
- (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. 35
- (11) The appeals committee shall 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) the requirements to give notice of an appeal, 40

- (b) the parties to an appeal,
 - (c) the documentation to be supplied to the appeals committee by the licensing authority,
 - (d) the ability of appeals committee to require submission by a party to the appeal of information or documentation that is necessary for determination of an appeal, 5
 - (e) the dismissal of an appeal which in the opinion of the appeals committee is vexatious, frivolous, an abuse of process or without substance or foundation,
 - (f) advising the appellant of the appellant's right—
 - (i) to be present at the appeals committee's sitting, and
 - (ii) to present the appellant's case in person or, at the appellant's own expense, 10 through a legal representative,
 - (g) the procedures for the hearing of an appeal,
 - (h) the examination of witnesses,
 - (i) the determination by the appeals committee as to whether or not evidence should be given under oath, 15
 - (j) the time limits to apply to the making and conduct of appeals,
 - (k) submissions to the appeals committee by parties to an appeal or other persons,
 - (l) the procedures for the consolidation and hearing of two or more than two appeals together,
 - (m) the procedures for delayed or abandoned appeals, 20
 - (n) the recording of proceedings,
 - (o) the procedures for imposing restrictions in relation to the disclosure, during the hearing of an appeal, publication or reporting of a matter the appeals committee considers to be commercially sensitive, and
 - (p) the procedures for sittings of the appeals committee otherwise than in public. 25
- (12) The whole or part of any proceedings under this section may be heard otherwise than in public if the appeals committee, in the interests of justice, considers that the interests of the party or parties concerned so require.
- (13) In particular, the appeals committee shall have due regard for the protection of commercially sensitive information. 30
- (14) The Minister shall direct the licensing authority to provide such support of an administrative nature as the Minister considers necessary to enable the appeals committee to perform its functions and the licensing authority shall comply with a direction under this subsection.
- (15) The appeals committee shall furnish to the licensing authority information concerning the performance of the functions of the appeals committee requested by the licensing authority to enable the licensing authority to determine the administrative supports required by the appeals committee. 35

Appeal to appeals committee

58. (1) A licensee or responsible person, as the case may be, adversely affected by a decision of the licensing authority—
- (a) to refuse to grant a relevant worker licence,
 - (b) to refuse to renew a worker licence, 5
 - (c) to refuse to grant or renew a tutor licence, or
 - (d) under this Part,
- may appeal to the appeals committee against the decision not later than 14 days beginning on the date of the notice of that decision (in this section referred to as “the appellant”). 10
- (2) An appeal under *subsection (1)* shall be in writing and shall specify the decision to which the appeal relates and the grounds on which the appeal rests.
- (3) An appeal under *subsection (1)* 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. 15
- (5) A witness at a hearing conducted by the appeals committee has the same immunities and privileges as if the person were a witness before the High Court.
- (6) The chairperson of the appeals committee may by notice to the appellant—
- (a) direct an appellant to attend before the appeals committee on a date and at a time and place specified in the direction, 20
 - (b) direct 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, 25
 - (c) request the licensing authority to produce any documents in its possession relating to the appeal together with its observations on the appeal, and
 - (d) give any other direction 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— 30
- (a) confirm the decision of the licensing authority, subject to any amendment thereof as the appeals committee considers appropriate,
 - (b) remit, for stated reasons and with or without directions, the matter to the licensing authority for reconsideration and the making of a new decision (which may, in the case of a decision of the licensing authority under *section 55(2)(a)* be a decision to impose a major sanction), or 35
 - (c) substitute its determination for the decision of the licensing authority (which may, in the case of a decision of the licensing authority under *section 55(2)(a)* be a decision to impose a major sanction).

- (8) Where the appeals committee determines under *subsection (7)(c)* to impose a major sanction under *section 55(2)(a)(ii)*, *section 59* shall, with all necessary modifications, apply to the determination as if it were a decision of the licensing authority to impose a major sanction on the licensee concerned.
- (9) The chairperson of the appeals committee shall give notice of the decision made on the appeal, the date on which it was made and the reasons for it to—
 - (a) the appellant and shall inform the appellant that the appellant may, under *section 59*, appeal the decision to the District Court, and
 - (b) the licensing authority.

Appeal to District Court

- 59. (1) Any licensee or responsible person, as the case may be, the subject of a decision under *section 58* may, not later than 30 days beginning on the date the licensee or responsible person, as the case may be, receives notice of that decision, appeal to the Court against the decision. 10
- (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. 15
- (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 whether—
 - (a) 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, 20
 - (b) the appeals committee complied with fair procedures in making its decision, and
 - (c) the sanction upheld or imposed by the appeals committee was appropriate and proportionate. 25
- (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. 30
- (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— 35

- (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. 5
- (7) A licensee or responsible person, as the case may be, 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 licensee or responsible person, as the case may be, does not so comply, the appeal shall be invalid and shall not be considered. 10
- (8) In this section, “Court” means the District Court.

Matters to be considered in deciding sanction to be imposed

60. The licensing authority, the appeals committee or the District Court, as appropriate, in considering the sanction (if any) to be imposed on a licensee or responsible person, as the case may be, under this Part, 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— 15
- (a) 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, 20
 - (b) the seriousness of the improper conduct,
 - (c) the extent of any failure by the licensee or responsible person, as the case may be, to co-operate with the investigation of the licensee or responsible person, as the case may be, 25
 - (d) any excuse or explanation by the licensee or responsible person, as the case may be, for the improper conduct or failure to co-operate with the investigation concerned,
 - (e) the duration of the improper conduct,
 - (f) the repeated occurrence of improper conduct by the licensee or responsible person, as the case may be, 30
 - (g) if applicable, the continuation of the improper conduct after the licensee or responsible person, as the case may be, was notified of the investigation concerned,
 - (h) if applicable, the extent and timeliness of any steps taken to end the improper conduct and any steps taken to remedy the consequences of the improper conduct, 35
 - (i) whether a sanction in respect of like improper conduct has already been imposed on the licensee or responsible person, as the case may be, by a court, the licensing authority or another person, and 40

- (j) any precedents set by a court, the licensing authority or another person in respect of a previous improper conduct.

PART 8

MISCELLANEOUS

Offences and penalties

5

61. (1) (a) A person who—

(i) knowingly makes any false or misleading statement in any application or any document required thereunder or otherwise gives false or misleading information to the licensing authority or the appeals committee, or

(ii) forges, or fraudulently alters or uses, or fraudulently lends to, or allows to be used by, any other person, any licence under this Act, 10

shall be guilty of an offence.

(b) Where a person is guilty of an offence under this subsection—

(i) the person shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, and 15

(ii) where the person is a licensee, the person's licence may be revoked.

(2) A person who is guilty of an offence—

(a) under *section 30(3)* or *39(2)* shall be liable, on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months, or both,

(b) under *section 50(15)*, shall be liable on summary conviction to a class B fine, or 20

(c) under *section 54(9)*, shall be liable—

(i) on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months, or both, or

(ii) to have the licence of the person to whom the notice was given revoked.

(3) The licensing authority shall notify the Construction Industry Registration Body if a person is convicted of an offence under this Act. 25

(4) The licensing authority may bring and prosecute summary proceedings for an offence under this Act.

(5) 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 within 12 months from the date on which the offence was committed. 30

(6) It shall be presumed, until the contrary is shown, that proceedings for an offence under this Act were commenced within the appropriate period.

(7) Where a person is convicted of an offence under this Act in proceedings brought by the licensing authority, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the licensing authority 35

the costs and expenses measured by the court, incurred by the licensing authority in relation to the investigation, detection and prosecution of the offence.

Liability for offences by bodies corporate

62. (1) Where—
- (a) an offence under this Act has been committed by a body corporate, and 5
 - (b) the offence is proved to have been so committed with the consent or connivance of, or to have been attributable to any wilful 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, 10
- that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if the person 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 that member were a director or manager of the body corporate. 15

Transitional arrangements

63. (1) A construction skills registration card or a quarries skills registration card that is valid on the date on which this section comes into operation shall continue to be valid for a period of 5 years beginning on the date on which this section comes into operation or until the date on which that card expires, whichever is the earlier. 20
- (2) A person who, on the date on which this section comes into operation, is approved by SOLAS as a tutor shall continue to be so approved for a period of one year beginning on the date on which this section comes into operation or until the date on which that approval expires, whichever is the earlier. 25
- (3) In this section—
- “construction skills registration card” means a SOLAS Construction Skills Certification Scheme registration card issued under the Regulations of 2013;
 - “quarries skills registration card” means a SOLAS Quarries Skills Certification Scheme registration card issued by SOLAS under the Regulations of 2008. 30

Power of licensing authority to specify form of documents

64. (1) The licensing authority may specify the form of documents required for the purposes of this Act as the licensing authority considers appropriate.
- (2) The licensing authority's power under *subsection (1)* may be exercised in such a way as to— 35
- (a) include in the specified form of any document referred to in that subsection a statutory declaration—

- (i) to be made by the person completing the form, and
- (ii) as to whether the particulars contained in the form are true and correct to the best of that person's knowledge and belief,

and

- (b) specify 2 or more forms of any document referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the licensing authority considers appropriate. 5

(3) The form of a document specified under this section shall be—

- (a) completed in accordance with such directions and instructions as are specified in the document, 10

(b) accompanied by such other documents as are specified in the document, and

(c) if the completed document is required to be provided to—

- (i) the licensing authority,
- (ii) another person on behalf of the licensing authority, or
- (iii) any other person, 15

so provided in the manner (if any) specified in the document.

SCHEDULE

Section 28

ACTIVITIES IN RESPECT OF WHICH RELEVANT WORKER LICENCE OR TUTOR LICENCE REQUIRED

Category Name	Activity		
Plant	Operation of 180° excavator	5	
	Operation of telescopic handler		
	Operation of tractor/dozer		
	Operation of mobile crane	10	
	Operation of 360° excavator		
	Operating as slinger/signaler		
	Operation of articulated dumper		
	Operation of crawler crane		
	Operation of mini-digger/excavator		
	Roofing	Operation of self-erect tower crane	15
		Operation of site dumper	
		Operation of rigid dump-truck	
		Operation of front-end loader	
Operation of tower crane			
Roof and wall sheeting/cladding		20	
Built-up roof felting			
Scaffolding	Basic scaffolding	25	
	Advanced scaffolding		
Mobile Tower Scaffold	Mobile access tower scaffolding		
Underground Services	Locating underground services		
Roadworks	Signing, lighting and guarding	25	
	Operation of health and safety at roadworks		
Shotfiring	Shotfiring		
Explosives	Explosives storekeeping		
	Explosives supervision		

An Bille um Cheadúnú Sábháilteachta
Foirgníochta, 2023

BILLE

(mar a leasaíodh sa Roghchoiste um Oideachas,
Breisoideachas agus Ardoideachas, Taighde,
Nuálaíocht agus Eolaíocht)

dá ngairtear

Acht do dhéanamh socrú maidir le húdarás ceadúnúcháin a cheapadh chun oibrithe a chomhallann gníomhaíochtaí áirithe i ndáil le hobair foirgníochta a cheadúnú; do dhéanamh socrú maidir le hoidí a sholáthraíonn oiliúint áirithe i ndáil le hobair foirgníochta a cheadúnú; do dhéanamh socrú maidir le clár de cheadúnaithe a bhunú agus a chothabháil; do dhéanamh socrú maidir le gearáin i gcoinne ceadúnaithe agus daoine freagracha a imscrúdú agus a bhreithniú; do bhunú coiste achomhairc chun achomhairc i gcoinne breitheanna áirithe ón údarás ceadúnúcháin a chinneadh; do shainaimniú an údaráis ceadúnúcháin mar an t-údarás inniúil chun críocha Rialacháin an Aontais Eorpaigh (Cáilíochtaí Gairmiúla a Aithint), 2017; agus do dhéanamh socrú i dtaobh nithe gearmhara.

Ordaíodh ag an Roghchoiste a chlóbhualadh,
27 Meitheamh, 2023

Construction Safety Licensing Bill 2023

BILL

(as amended in the Select Committee on Education,
Further and Higher Education, Research,
Innovation and Science)

entitled

An Act to provide for the appointment of a licensing authority for the purposes of licensing workers carrying out certain activities in relation to construction work; to provide for the licensing of tutors providing certain training in relation to construction work; to provide for the establishment and maintenance of a register of licensees; to provide for the investigation and adjudication of complaints against licensees and responsible persons; to establish an appeals committee to determine appeals against certain decisions of the licensing authority; to designate the licensing authority to be the competent authority for the purposes of the European Union (Recognition of Professional Qualifications) Regulations 2017; and to provide for related matters.

Ordered by the Select Committee to be printed,
27th June, 2023

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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