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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO SUPPORT THE NEEDS OF FORMER RESIDENTS TO BE KNOWN AS BORD AN CHISTE REACHTÚIL FORAS CÓNAITHE OR IN THE ENGLISH LANGUAGE, THE RESIDENTIAL INSTITUTIONS STATUTORY FUND BOARD, AND TO DEFINE ITS FUNCTIONS; TO PROVIDE FOR THE MAKING OF CONTRIBUTIONS BY CERTAIN PERSONS; TO AMEND THE RESIDENTIAL INSTITUTIONS REDRESS ACT 2002; TO AMEND THE COMMISSION TO INQUIRE INTO CHILD ABUSE (AMENDMENT) ACT 2005; AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Residential Institutions Statutory Fund Act 2012.

(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.

2.—In this Act, unless the context otherwise requires—

“abuse” has the meaning given to it by the Act of 2002;


“Act of 2005” means the Commission to Inquire into Child Abuse (Amendment) Act 2005;

“Agency” means the National Treasury Management Agency;
“appeals officer” shall be construed in accordance with section 21(1);
“approved service” shall be construed in accordance with section 8;
“Board” shall be construed in accordance with section 6;
“chief executive” shall be construed in accordance with section 13;
“decision maker” shall be construed in accordance with section 20(7);
“dissolved body” shall be construed in accordance with section 32;
“enactment” has the meaning given to it by section 2 of the Interpretation Act 2005;
“establishment day” shall be construed in accordance with section 6;
“former resident” shall be construed in accordance with section 3;
“investment account” means the account established under section 29(3);
“liaison officer” shall be construed in accordance with section 25(2);
“Minister” means the Minister for Education and Skills;
“public authority” means:

(a) a Department of State (other than, in relation to the Department of Defence, the Defence Forces) for which a Minister of the Government is responsible;

(b) the Health Service Executive;

(c) a local authority, within the meaning of the Local Government Act 2001;

(d) a person established—

(i) by any enactment (other than the Companies Acts),

(ii) by any scheme administered by a Minister of the Government, or

(iii) under the Companies Acts, in pursuance of powers conferred by another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;

(e) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government;

(f) other than for the purposes of section 7(1)(c), 20(4)(a)(ii) or 25, a person situated outside the State corresponding to a person referred to in paragraphs (a) to (e);

“publicly available service” means any service or facility of any kind provided by a public authority that is available to or accessible by the public generally or a section of the public, whether or not the service or facility is subject to a charge;
“relevant trust” means a trust, which may include a company, a body corporate other than a company or an unincorporated body of persons, established for charitable purposes and who is or was engaged in the management, administration, operation, supervision or regulation of an institution specified in the Schedule to the Act of 2002;

“trustee” in relation to a relevant trust means the relevant trust or a trustee of the relevant trust on its behalf.

3.—(1) This Act shall apply to the following person (in this Act referred to as a “former resident”) whether or not he or she is resident in the State:

(a) a person who has received an award (other than an award referred to in subsection (2)) under the Act of 2002;

(b) a person who has received an award or settlement referred to in section 7(2) of the Act of 2002.

(2) The following shall not be an award for the purposes of subsection (1)(a):

(a) an award made under section 9 of the Act of 2002, or

(b) an award of a nil amount made under the Act of 2002.

(3) A reference in this Act to a former resident, as appropriate, shall include a reference—

(a) to a person who has been nominated in writing by the former resident for the purposes of making an application under this Act,

(b) where the donor of a power of attorney is a former resident, to a person who is the donee of a power of attorney given the power to act on behalf of the donor of the power,

(c) where the former resident is a ward of court, to the Committee of the Person of that ward, duly authorised in that behalf, or

(d) to a person appointed by a former resident to be his or her attorney under an enduring power of attorney where—

(i) the attorney is not prohibited or restricted by the terms of the power from performing any matter performable under this Act by an attorney, and

(ii) the enduring power of attorney has been registered and the registration has not been cancelled.

(4) In subsection (3)—

“enduring power of Attorney” means a power of attorney within the meaning of section 2 of the Powers of Attorney Act 1996, which is an enduring power construed in accordance with section 5 of that Act;

“registration” in relation to an enduring power of attorney means registration under section 10 of the Powers of Attorney Act 1996.
4.—(1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Where regulations are proposed to be made for the purposes of section 8(3), a draft of those regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

(4) Where an order (other than an order under section 1(2) or 6(1)) is proposed to be made under this Act a draft of that order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.

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

PART 2

RESIDENTIAL INSTITUTIONS STATUTORY FUND BOARD

6.—(1) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

(2) There shall stand established on the establishment day, a body to be known as Bord an Chiste Reachtúil Foras Cónaithe or, in the English language, the Residential Institutions Statutory Fund Board (in this Act referred to as the “Board”), to perform the functions conferred on it by this Act.

(3) Subject to this Act, the Board shall be independent in the performance of its functions.

7.—(1) The Board, in a manner that promotes the principles of equity, consistency and transparency, shall—

(a) utilise the resources that are available to it in the investment account to—

(i) make arrangements with persons, whether or not they are resident in the State, for the provision of approved services to support the needs of former residents,

(ii) pay grants to former residents in order that they may avail of approved services,

(b) determine under—

(i) section 8 whether a service is an approved service,
(ii) section 9 criteria by reference to which the Board shall make a decision on an application to the Board for an arrangement or a grant,

and

5 (c) promote understanding, among persons involved in the provision of approved services and publicly available services to former residents, of the effects of abuse on former residents.

(2) For the purpose of performing the functions referred to at subsection (1), the Board shall—

(a) make information relating to the functions of the Board available to former residents,

(b) evaluate the effectiveness of approved services in meeting the needs of former residents, and

(c) take such steps as the Board considers appropriate to consult with persons the Board considers may be affected by the performance by the Board of its functions.

(3) In performing any functions conferred on it by or under this Act, the Board shall have regard to the existence of publicly available services and the need to secure the most beneficial, effective and efficient use of the resources available in the investment account.

(4) The Board shall have all such powers as are necessary or expedient for the performance of its functions.

(5) The Board may perform any of its functions through or by any member of the staff of the Board duly authorised in that behalf by the Board.

(6) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order—

(a) confer on the Board such additional functions relating to the functions conferred on the Board by this section or by an order under this subsection as the Minister considers appropriate, and

(b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Board of those additional functions.

(7) The Board, from time to time as it considers necessary for the performance of its functions and with the approval of the Minister, may—

(a) enter into contracts with persons, and

(b) engage consultants or advisers,

for such period and subject to such terms and conditions as the Board considers appropriate and any sums thereby payable by the Board to such persons, consultants or advisers shall be paid by the Board out of moneys at its disposal.
Approved services. 8.—(1) In this Act “approved service” means a service belonging to one of the following classes of service, in relation to which the Board makes a determination under subsection (2):

(a) a mental health service relating to care and treatment of a person suffering from a mental illness or a mental disorder, a counselling service or a psychological support service;

(b) a health and personal social service, including—

(i) a general practitioner, medical or surgical service provided by a registered medical practitioner (within the meaning of section 2 of the Medical Practitioners Act 2007) in relation to all medical conditions,

(ii) a hospital treatment service,

(iii) a pharmacy service including provision of drugs, medicines, medical or surgical appliances,

(iv) a nursing service provided otherwise than in a hospital,

(v) a service to assist in the maintenance at home of a former resident who is sick or infirm and who, but for the provision of the service, would require to be maintained otherwise than at home,

(vi) a dental, ophthalmic or aural treatment service, including provision of a dental, ophthalmic or aural appliance,

(vii) a service of an ancillary nature such as chiropody, chiropractic, occupational therapy, physiotherapy, podiatry or speech therapy;

(c) an educational service;

(d) a housing support service, including adaptation or improvement of real property but not including financial aid for the purchase, mortgage or charge of real property;

(e) a service prescribed under subsection (3).

(2) The Board may determine whether a service belonging to a class of service referred to in subsection (1) is an approved service and in making such a determination the Board shall have regard to:

(a) the likely effect of the provision of the service on the—

(i) health and general well-being,

(ii) personal and social development,

(iii) educational development, or

(iv) living conditions, of a former resident;

(b) the need for minimum standards to be met by a provider of an approved service;
(c) any other matter that the Board considers, having regard to the functions of the Board, is a proper matter to be taken into account.

(3) The Minister, on receipt of a recommendation from the Board or following consultation by him or her with the Board, may prescribe a class of service, other than a class of service referred to in paragraph (a), (b), (c) or (d) of subsection (1), to be a class of service in relation to which the Board may make a determination under subsection (2) and—

(a) in so recommending or during such consultation with the
Minister the Board shall have regard to the matters referred to in paragraphs (a) to (c) of subsection (2), and

(b) in so prescribing, the Minister shall have regard to—

(i) the matters referred to in paragraphs (a) and (b) of
subsection (2) and any matter that the Board considers is a proper matter under paragraph (c) of that
subsection, and

(ii) any other matter that the Minister considers is a
proper matter to be taken into account.

(4) An approved service may be determined under this section by reference to a particular class of approved service, and different approved services or classes of approved service may be determined by reference to different former residents or classes of former resident.

(5) The Board may amend or revoke a determination under this section, including an amendment thereto under this subsection, that a service is an approved service and that amendment or revocation may provide for incidental, consequential or transitional matters.

(6) Information relating to approved services shall be made available in writing free of charge by the Board to any person on request therefor and shall be published by the Board in such manner, including by electronic means, as it sees fit.

(7) For the purposes of this Act, a service that—

(a) is available outside of the State, and

(b) corresponds to a service in relation to which a determination under subsection (2) is made,

shall be taken to be an approved service.

9.—(1) The Board shall determine criteria by reference to which the Board shall make a decision in respect of an application under section 20.

(2) The Board in determining criteria under subsection (1) shall have regard to the need to—

(a) take account of the individual circumstances, including personal and financial circumstances, of former residents,

(b) assess the likely effect of the provision of a service on
the—
(i) health and general well-being,
(ii) personal and social development,
(iii) educational development, or
(iv) living conditions, of former residents,

(c) apply limits to the moneys that may be made available for an arrangement or grant,
(d) specify minimum standards to be met by a provider of an approved service,
(e) specify any supporting evidence that may be required to be furnished by former residents, and
(f) take into account any other matter that the Board considers, having regard to the functions of the Board, is a proper matter to be taken into account.

(3) Different criteria may be determined under this section as respects—

(a) different circumstances or classes of circumstance relating to former residents,
(b) different approved services or classes of approved service, and
(c) different former residents or classes of former resident.

(4) Criteria determined under this section may include criteria, consistent with this Act, for the purpose of the relief of hardship where it is shown to the satisfaction of the Board on an application under section 20 that exceptional circumstances exist, such that criteria (other than criteria determined under this subsection) determined under this section may be disregarded by the Board in making its decision on the application.

(5) The Board may amend or revoke any criteria determined under this section including an amendment thereto under this subsection and that amendment or revocation may provide for incidental, consequential or transitional matters.

(6) Criteria determined by the Board under this section shall be made available in writing free of charge by the Board to any person on request therefor and shall be published by the Board in such manner, including by electronic means, as it sees fit.

10.—(1) The Minister may, in relation to the performance by the Board of its functions, give a direction in writing to the Board requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, by direction in writing amend or revoke a direction under this section, including a direction under this subsection.

(3) The Board shall comply with a direction under this section.
11.—(1) The Board shall consist of 9 members who shall be appointed by the Minister—

(a) of whom 4 are persons who were resident in an institution specified in the Schedule to the Act of 2002 before they attained the age of 18 years, and

(b) among whom there are persons other than those referred to at paragraph (a), who have knowledge of, and expertise in relation to one or more than one of the following:

(i) the keeping of financial accounts and disbursement of funds;

(ii) the management and administration of an organisation;

(iii) the provision of an approved service or approved services.

(2) The Minister shall appoint one member of the Board as chairperson.

(3) The Minister shall, in so far as is practicable, ensure an equitable balance between men and women in the composition of the Board.

(4) The members of the Board shall, subject to the provisions of this Act, hold office on such terms and conditions (including terms and conditions relating to the payment of allowances for expenses) as may be determined by the Minister, with the approval of the Minister for Public Expenditure and Reform.

(5) In performing its functions, the Board shall act in utmost good faith with due care, skill and diligence.

(6) The provisions of the Schedule shall have effect in relation to the Board.

12.—(1) A member of the Board shall hold office for such period, not exceeding 4 years from the date of his or her appointment, as the Minister shall determine.

(2) Subject to subsection (3), a member of the Board whose period of office expires by the passage of time is eligible for re-appointment as such a member.

(3) A member of the Board shall not hold office as such member for more than 2 terms of office that are consecutive.

13.—(1) There shall be a chief executive officer of the Board (in this Act referred to as the “chief executive”).

(2) Subject to subsections (4) and (5), the chief executive shall be appointed by the Board with the consent of the Minister.

(3) The chief executive may be removed from office by the Board for stated reasons, with the consent of the Minister.
(4) The Minister may, before the establishment day, designate a person to be appointed to be the first chief executive of the Board.

(5) If, immediately before the establishment day, a person stands designated by the Minister under subsection (4), the Board shall appoint that person to be the first chief executive.

(6) The chief executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and expenses) as may be determined by the Board with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(7) The chief executive shall not hold any other office or employment or carry on any business without the consent of the Board.

(8) The chief executive may attend any meeting of the Board.

14.—(1) The chief executive shall carry on and manage, and control generally, the administration of the Board and perform such other functions (if any) assigned to him or her by or under this Act or any other enactment or as may be determined by the Board.

(2) The chief executive shall perform his or her functions subject to such policies as may be determined from time to time by the Board, and shall be accountable to the Board for the efficient and effective management of the Board and for the due performance of his or her functions.

(3) The chief executive shall provide the members of the Board with such information, including financial information, in relation to the performance of his or her functions as the members may require.

(4) The chief executive may make proposals to the Board on any matter relating to the functions of the Board.

(5) The chief executive may, with the consent in writing of the Board, delegate any of his or her functions to a specified member of staff of the Board, and that member of staff shall be accountable to the chief executive for the performance of the functions so delegated.

(6) The chief executive shall be accountable to the Board for the performance of functions delegated by him or her in accordance with subsection (5).

(7) The chief executive may, with the consent in writing of the Board, revoke a delegation made under subsection (5).

(8) In subsection (5), “functions” shall not include a function delegated by the Board to the chief executive subject to a condition that the function shall not be delegated by the chief executive to anyone else.

(9) The Board may, with the agreement of the member of staff concerned, designate a member of the staff of the Board to perform functions of the chief executive in the absence of the chief executive or where the position of chief executive is vacant, and a member so designated shall in such absence or upon such position being vacant perform those functions.

(10) The Board may at any time revoke or alter the designation made under subsection (9).
15.—(1) The chief executive shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to that Committee in relation to—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Board is required by this Act to prepare,

(b) the economy and efficiency of the Board in the use of its resources,

(c) the systems, procedures and practices employed by the Board for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the Board referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

16.—(1) In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in section 15 or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a sub-committee of such a Committee.

(2) Subject to subsection (3), the chief executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Board.

(3) The chief executive shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or Tribunal in the State.

(4) Where the chief executive is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which subsection (3) applies, he or she shall inform the Committee of that opinion and the reasons therefor and, unless the information is conveyed to the Committee at a time when the chief executive is before it, the information shall be so conveyed in writing.

(5) Where the chief executive has informed a Committee of his or her opinion in accordance with subsection (4) and the Committee does not withdraw the request referred to in subsection (2) in so far as it relates to a matter the subject of that opinion—
(a) the chief executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which subsection (3) applies, or

(b) the chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court shall determine the matter.

(6) Pending the determination of an application under subsection (5), the chief executive shall not attend before the Committee to give account for the matter the subject of the application.

(7) If the High Court determines that the matter concerned is one to which subsection (3) applies, the Committee shall withdraw the request referred to in subsection (2), but if the High Court determines that subsection (3) does not apply, the chief executive shall attend before the Committee to give account for the matter.

(8) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

17.—(1) The Board shall appoint, with the consent of the Minister and the Minister for Public Expenditure and Reform, such and so many persons to be members of the staff of the Board as it may from time to time determine.

(2) The terms and conditions of service of a member of the staff of the Board shall, with the consent of the Minister given with the consent of the Minister for Public Expenditure and Reform, be such as may be determined from time to time by the Board.

(3) There shall be paid by the Board to the members of its staff such remuneration, allowances and expenses as, from time to time the Board with the consent of the Minister given with the consent of the Minister for Public Expenditure and Reform, determines.

18.—(1) As soon as may be after the establishment day, the Board shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the Board, including the chief executive, as the Board may think fit.

(2) The Board shall submit to the Minister every scheme made under this section.

(3) Every scheme made under this section shall fix the time and conditions of retirement for all persons to, or in respect of whom, superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of person.

(4) Every scheme made under this section may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.
(5) A scheme or amending scheme submitted by the Board under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the Board in accordance with its terms.

(6) No superannuation benefit shall be granted by the Board to or in respect of a member of the staff (including the chief executive) of the Board, nor shall any other arrangement be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, otherwise than in accordance with a scheme or schemes submitted and approved under this section or an arrangement with the consent of the Minister and the Minister for Public Expenditure and Reform.

(7) Every scheme under this section shall make provision for appeals.

(8) The Minister shall cause a scheme made under this section to be laid before each House of the Oireachtas as soon as may be after it is approved under subsection (5) and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(9) In this section “superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death.

19.—(1) The Board shall not later than 31 March in each year prepare, in such form and manner as it considers appropriate, a report of its activities and proceedings during the preceding year.

(2) If the establishment day falls in the period from 1 October to the following 31 December, the first report under subsection (1) shall be prepared not later than 31 March in the second year following that in which the establishment day falls and shall relate to the year in which the establishment day falls and the following year.

(3) The Minister shall, as soon as may be after receiving the report, cause copies of the report to be laid before each House of the Oireachtas.

(4) The Board shall arrange for a report laid before both Houses of the Oireachtas in accordance with subsection (3) to be published on the internet as soon as practicable after copies of the report are laid before each House of the Oireachtas.

(5) The Board shall provide the Minister with such information as he or she may request in relation to the performance of its functions and may provide such other persons as it considers appropriate with such information as it considers appropriate in relation to—

(a) applications for arrangements or grants from the Board,

(b) decisions of the Board in relation to such applications, and

(c) the reasons for decisions of the Board in relation to such applications.

(6) No information shall be provided under subsection (5) that constitutes confidential information within the meaning of section 23(1).
Applications to Board and associated matters.

20.—(1) On application to it in that behalf the Board shall satisfy itself whether the person making the application is a former resident and may—

(a) make an arrangement with a person, whether or not the person is resident in the State, for the provision of an approved service to support the needs of a former resident, or

(b) pay a grant to a former resident to assist the former resident to avail of an approved service.

(2) An arrangement made or a grant paid under subsection (1) shall be in respect of such an approved service, of such extent, paid at such time and subject to such a condition as the Board may decide.

(3) The procedures, including procedures where section 9(4) applies, to be followed by the Board with respect to—

(a) the making of an application to it, including where the Board considers it appropriate, an application in electronic form,

(b) the consideration by the Board of an application, and

(c) the making of a communication by the Board to an applicant for the purposes of an application or any matter consequent upon it,

shall be determined by the Board and be made available in writing free of charge by the Board to any person on request therefor and shall be published by the Board in such manner, including by electronic means, as it sees fit.

(4) Without limiting the generality of subsection (3)(b), procedures under that subsection may include provision for—

(a) the making of a request by the Board of the applicant to—

(i) furnish to it such information or documents as the Board may determine, or

(ii) authorise the Board to liaise with a public authority, for the purpose of the Board considering the application concerned, and

(b) enabling the Board to refuse to further consider the application if the request under paragraph (a) is not complied with and the Board may so request or refuse to further consider the application in accordance with the procedures.

(5) The Board shall not make an arrangement or pay a grant under this section unless the Board is satisfied that—

(a) the application by the former resident satisfies the criteria determined by the Board under section 9, and

(b) the application is made in accordance with procedures determined by the Board.
A grant paid to a former resident shall be used solely for defrayal of or contribution to defrayal of the cost to the former resident of availing of the approved service specified by the Board in its decision under this section, unless the Board on application to it in that behalf by the former resident concerned, decides to authorise the use of the grant or a part of it for defrayal of or contribution to defrayal of the cost to the former resident of availing of another approved service specified by the Board.

A decision of the Board under this section shall be made by the chief executive or a member of staff of the Board to whom the chief executive delegates the function, either of whom shall in relation to the decision, be called the “decision maker”.

As soon as practicable after the decision maker makes a decision under this section the Board shall give notice in writing of the decision and the reasons therefor, together with, where the Board considers it appropriate, information regarding the making of an appeal under section 22 to—

(a) the former resident concerned, or

(b) if appropriate, a person referred to in section 22(1)(a).

The Minister shall appoint, on such terms and conditions as are specified in writing, one or more than one person who—

(a) is a practising barrister or solicitor of not less than 5 years’ standing, or

(b) has a special interest or expertise in or knowledge of matters regarding approved services, administration of schemes of payments or fair procedures,

to consider an appeal under section 22 who shall, in relation to the appeal, be called the “appeals officer”.

An appeals officer shall be independent in the performance of his or her functions under this Act.

An appeals officer—

(a) shall be paid such remuneration and allowances as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines,

(b) may be provided with such staff, whose terms and conditions of service and to whom payment of remuneration and allowances shall be such as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines as reasonably necessary to enable the appeals officer to perform his or her functions under this Act, and

(c) may resign from the appointment by notice in writing given to the Minister.

The Minister may revoke the appointment of an appeals officer for stated reasons.

An appeals officer shall, at such intervals and in relation to such periods as are specified in writing by the Minister,
submit a report in writing to the Minister in relation to the performance of his or her functions under this Act as an appeals officer during the period to which the report relates.

(b) No information shall be provided under paragraph (a) that constitutes confidential information within the meaning of section 23(1).

(c) The Minister shall cause copies of a report submitted under paragraph (a) to be laid before each House of the Oireachtas.

22.—(1) The following persons may appeal a decision of a decision maker to an appeals officer:

(a) a person who the decision maker decides is not a former resident;

(b) a former resident to whose application the decision relates.

(2) An appeal shall be made not later than 30 days after giving of the notice, under section 20(8) of the decision of the decision maker however, this period at the request in writing of the appellant, may be extended by the appeals officer for a further period not exceeding 30 days if the appeals officer is satisfied that the person has given reasonable cause to so extend.

(3) An appeal under this section shall state the reasons for the appeal.

(4) The Minister shall prescribe procedures for hearing and determining appeals by an appeals officer including—

(a) the form in which the appeal shall be made, including electronic form,

(b) making of submissions, whether oral or written, to the appeals officer,

(c) requests for further information by the appeals officer, and

(d) examination by the appeals officer of the appellant and any other person whom the appeals officer considers appropriate.

(5) In considering an appeal under this section an appeals officer shall—

(a) not be confined to the grounds on which the decision of the decision maker was based, but may decide the matter the subject of the appeal as if it were being decided for the first time,

(b) subject to procedures prescribed under subsection (4), as he or she considers appropriate, consider written or oral submissions made by the appellant and consult with the Board,

(c) make a decision in writing determining the appeal as soon as is practicable in all the circumstances of the case which may be a determination to—
(i) confirm the decision the subject of the appeal,

(ii) revoke the decision and replace it with such other
decision as the appeals officer considers appro-
priate, or

(iii) refer the matter back to the decision maker for recon-
consideration in accordance with such directions as the
appeals officer considers appropriate,

and

(d) send a copy of the decision to the appellant, the Board
and the decision maker together with his or her reasons
for the decision.

(6) A person (including the Board) affected by a decision under
subsection (5)(c) may appeal to the High Court—

(a) on a point of law from the decision, and

(b) not later than 28 days after he or she receives a copy of
the decision and the reasons for the decision under sub-
section (5)(d).

(7) A decision of the High Court following an appeal under sub-
section (6) shall, where appropriate, specify the period within which
effect shall be given to the decision.

(8) A decision of the High Court on an appeal under subsection
(6) shall be final and conclusive.

(9) The Board shall—

(a) if applicable, give effect to a decision under subsection
(5)(c) as soon as is practicable after the period referred
therein to in subsection (6)(b) has elapsed without any appeal
under subsection (6) having been made in respect of
that decision,

(b) if applicable, give effect to a decision of the High Court
on an appeal under subsection (6)—

(i) within the period, if any, specified in the decision,

(ii) if subparagraph (i) is not applicable, as soon as is
practicable.

(1) In this section “confidential information” means inform-
ation that refers to a former resident or that could reasonably lead
to the identification of a former resident.

(2) Except in the circumstances specified in subsection (3) a per-
son shall not disclose confidential information obtained by him or
her while performing or as a result of having performed functions
as—

(a) a member of the Board or a committee of the Board,

(b) the chief executive or any other employee of the Board,
(c) a person engaged by the Board to provide consultancy, advice or other services to the Board,

(d) a person with whom the Board makes an arrangement for the provision of approved services,

(e) a liaison officer,

(f) an appeals officer or any staff of the appeals officer, or

(g) an employee of a person referred to in paragraph (c) or (d).

(3) A person does not contravene subsection (2) by disclosing confidential information if the disclosure—

(a) is made to or authorised by the Board,

(b) is made to the Garda Síochána where the person is acting in good faith and reasonably believes that such disclosure is necessary in order to prevent an act or omission constituting a serious offence,

(c) is made to an appropriate person (within the meaning of the Protections for Persons Reporting Child Abuse Act 1998) where the person is acting in good faith and reasonably believes that such disclosure is necessary to prevent, reduce or remove a substantial risk to life or to prevent the continuance of abuse of a child,

(d) is in compliance with this Act, or

(e) is required by law or an enactment other than this Act.

(4) Nothing in subsection (2) shall prevent the disclosure of confidential information to a former resident to whom that information relates.

(5) A person who contravenes subsection (2) is guilty of an offence and is liable—

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

(b) on conviction on indictment, to a fine not exceeding €13,000 or imprisonment for a term not exceeding 3 years, or to both.

(6) In subsection (3)(b) “serious offence” means an offence for which a person of full age and capacity and not previously convicted may be punished by imprisonment for a term of 5 years or by a more severe penalty.

24.—(1) Notwithstanding anything contained in the Residential Institutions Redress Acts 2002 to 2011 or any other enactment the Residential Institutions Redress Board shall furnish personal information to the Board.

(2) The Board shall use personal information furnished under subsection (1) in order to determine whether a person is eligible to make an application to the Board and for no other purpose.
(3) In this section “personal information” means the name, address and date of birth of a person referred to in section 3(1)(a).

25.—(1) A public authority shall ensure, so far as practicable, that the activities of the Board and those of the public authority, in so far as they relate to their respective statutory functions, are co-ordinated.

(2) A public authority shall, when requested by the Board, authorise such and so many of its employees as it considers appropriate (in this Act referred to as “liaison officers”) to—

(a) advise former residents on the publicly available services provided by the public authority,

(b) provide to the Board information in relation to the range of publicly available services operated by that public authority, and

(c) liaise with the Board in relation to any application received by the Board under section 20.

(3) The Board may, with the consent of a former resident, consult with a public authority for the purpose of determining to what if any publicly available services the former resident is entitled.

26.—(1) A person who for the purpose of an application to the Board for an arrangement or grant for himself or herself or for any other person—

(a) makes any statement or representation (whether written or oral) which is to his or her knowledge false or misleading in any material respect, or is reckless as to whether such statement or representation is false or misleading, or

(b) furnishes or causes or knowingly allows to be furnished, any document or information which he or she knows to be false in a material respect or is reckless as to whether such document or information is so false or misleading,

(2) A person guilty of an offence under subsection (1) is liable—

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

(b) on conviction on indictment, to a fine not exceeding €13,000 or imprisonment for a term not exceeding 3 years, or to both.

27.—Paragraph 1 of the First Schedule to the Freedom of Information Act 1997 is amended, in subparagraph (2), by inserting “the Residential Institutions Statutory Fund Board,”.

23
Amendment of First Schedule to Ombudsman Act 1980.

PART 3

FINANCIAL MATTERS

28.—Part I of the First Schedule to the Ombudsman Act 1980 is amended by inserting “Residential Institutions Statutory Fund Board”.

29.—(1) As soon as may be after the coming into operation of this section the Minister, with the consent of the Minister for Public Expenditure and Reform, shall pay to the Agency—

(a) an amount equal to the total of moneys received by the Minister and the Minister for Public Expenditure and Reform from the trustees of a relevant trust and lodged in an account established at the Central Bank in the names of the Minister and the Minister for Public Expenditure and Reform for the purpose of receiving cash contributions towards the costs incurred by the Board in the performance of its functions,

(b) an amount equal to the aggregate of the interest on the amount referred to in paragraph (a) since establishment of the account referred to in that paragraph.

(2) Notwithstanding that it may not be authorised by the terms of a relevant trust the trustees of the relevant trust may make, and the Minister, with the consent of the Minister for Public Expenditure and Reform may accept—

(a) a payment of moneys where the purpose of the payment is to make a contribution towards the costs incurred by the Board in the performance of its functions, and

(b) an amount equal to the aggregate of the interest on the moneys referred to in paragraph (a) which the trustees of the relevant trust confirm to be due,

and the Minister shall, with the consent of the Minister for Public Expenditure and Reform, pay those moneys to the Agency.

(3) The Agency shall establish an investment account into which the amounts and moneys referred to in subsections (1) and (2) shall be deposited.

(4) The total of the amount under subsection (1)(a) and the moneys under subsection (2)(a) paid to the Agency shall not exceed €110,000,000.

(5) Moneys in the investment account that are not required for the purposes of section 30 shall be invested and the investments shall, with the consent of the Minister for Public Expenditure and Reform, be realised or varied as occasion requires and the proceeds of any such realisation, and any dividends or other payments received in respect of moneys invested under this subsection, shall be paid into the investment account or invested under this subsection.

(6) An investment under subsection (5) shall be in securities in which trustees are for the time being authorised by law to invest trust funds or in any of the stocks, funds or securities in which moneys of
the Post Office Savings Bank are for the time being authorised to be invested.

30.—(1) The expenses and other costs incurred by the Agency under this Act shall, subject to the approval of the Board, be charged on the investment account to the benefit of the Agency.

(2) The Agency may advance to the Board out of the investment account such sum as is requested by the Board for the purpose of defraying expenditure incurred by the Board in the performance of its functions.

(3) The Agency shall advance to the Minister out of the investment account such sum as is requested by the Minister to enable the Minister to make a payment, under section 21(3), to an appeals officer and any staff of an appeals officer.

31.—(1) The chief executive shall keep in such form as may be approved by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts and records of moneys received or expended by the Board.

(2) The accounts of the Board prepared by the chief executive and approved by the Board shall be submitted to the Comptroller and Auditor General for audit not later than 3 months after the end of the accounting period to which the accounts relate.

(3) Within one month of the Comptroller and Auditor General issuing an audit certificate for the accounts of the Board, a copy of—

(a) the accounts, and

(b) the report of the Comptroller and Auditor General on the accounts,

shall be presented to the Minister who shall, as soon as may be, cause copies thereof to be laid before each House of the Oireachtas.

(4) If required by the Minister, the Board shall furnish to the Minister the information the Minister may require in respect of any balance sheet, account or report of the Board.

(5) The Board, the chief executive and other members of staff of the Board—

(a) whenever so requested by the Minister, shall permit any person appointed by the Minister to examine the books or other records of account of the Board in respect of any financial year or other period, and

(b) shall facilitate the examination,

and the Board shall pay such fee as may be fixed by the Minister for the examination.
PART 4

Dissolution of Education (Former Residents of Certain Institutions for Children) Finance Board and Transfer of Functions to the Board

32.—On the commencement of this Part, the Education (Former Residents of Certain Institutions for Children) Finance Board (in this Act referred to as the “dissolved body”) is dissolved.

33.—Subject to section 41(2) all functions that, immediately before the commencement of this Part, were vested in the dissolved body are transferred to the Board and references in any enactment to the dissolved body shall be construed as references to the Board.

34.—(1) On the commencement of this Part, all property (other than land), including choses-in-action, that immediately before that commencement, was vested in the dissolved body shall stand vested in the Board without any assignment.

(2) Every chose-in-action vested in the Board under subsection (1) may on and from the commencement of this Part be sued on, recovered or enforced by the Board in its own name, and it shall not be necessary for the Board to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

35.—(1) All rights and liabilities of the dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the commencement of this Part shall on that commencement stand transferred to the Board.

(2) Every right and liability transferred by subsection (1) to the Board may, on and after the commencement of this Part, be sued on, recovered or enforced by or against the Board in its own name, and it shall not be necessary for the Board to give notice to the person whose right or liability is transferred by that subsection of such transfer.

36.—(1) Each person, who immediately before the commencement of this Part, was an employee of the dissolved body is, on that commencement, transferred to and becomes an employee of the Board.

(2) Except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred under this section shall not, on the commencement of this Part, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which the person was subject immediately before the commencement of this Part while in the employment of the dissolved body.

(3) The previous service of a person transferred under this section is to be counted as service for the purposes of, but subject to any exceptions or exclusions in, the following Acts—

(a) the Redundancy Payments Acts 1967 to 2011,
(b) the Minimum Notice and Terms of Employment Acts 1973 to 2005,

c) the Unfair Dismissals Acts 1977 to 2007,

d) the Terms of Employment (Information) Acts 1994 and 2001,

e) the Maternity Protection Acts 1994 and 2004,

(f) the Adoptive Leave Acts 1995 and 2005,

g) the Organisation of Working Time Act 1997,

(h) the Parental Leave Acts 1998 and 2006,

(i) the Protection of Employees (Part-Time Work) Act 2001,

(j) the Carer’s Leave Act 2001, and

(k) the Protection of Employees (Fixed-Term Work) Act 2003.

(4) (a) The Board may, subject to subsection (2) and following consultation with any recognised trade union or staff association concerned, redistribute or rearrange the duties performed by members of the staff of the Board who are employed in a particular grade or class of employment and every such member or person shall be bound to perform the duties allotted to him or her in any distribution or rearrangement.

(b) A redistribution or rearrangement referred to in paragraph (a) shall not be taken to be a removal from or abolition of office for the purposes of any scheme or enactment relating to superannuation or compensation for loss of office.

(5) In this section—

“consultation” has the meaning assigned to it by section 1 of the Employees (Provision of Information and Consultation) Act 2006;

“previous service” means service before the commencement of this Part with the dissolved body;

“terms and conditions of employment” includes terms and conditions in respect of tenure of office, remuneration and related matters.

37.—(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the commencement of this Part of the functions of the dissolved body transferred to the Board under section 33 shall after that day, lie against the Board and not against the dissolved body.

(2) Any legal proceedings pending immediately before the commencement of this Part to which the dissolved body is a party, that relate to a function of the Board, shall be continued, with the substitution in the proceedings of the Board, in so far as they so relate, for the dissolved body.
Provisions consequent upon transfer of functions, assets and liabilities to Board.

(3) Where, before the commencement of this Part, agreement has been reached between the parties concerned in settlement of a claim to which subsection (1) relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they would have been enforceable against the dissolved body, be enforceable against the Board and not the dissolved body.

(4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the commencement of this Part shall, where the claim relates to functions assigned to the Board by this Act, be regarded as having been made by or proper to be made by the Board and may be pursued and sued for by the Board as if the loss or injury had been suffered by the Board.

38.—(1) Anything commenced and not completed before the commencement of this Part by or under the authority of the dissolved body may, in so far as it relates to a function of the dissolved body transferred to the Board under section 33, be carried on or completed on or after the commencement of this Part by the Board.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by section 33, shall, if and in so far as it was operative immediately before the commencement of this Part, have effect on and after that commencement as if it had been granted or made by the Board.

39.—(1) The Board shall, in respect of the specified period, prepare final accounts of the dissolved body.

(2) The Board shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the expiration of the specified period, and within one month of the Comptroller and Auditor General issuing an audit certificate for the final accounts of the dissolved body, a copy of the accounts together with the report of the Comptroller and Auditor General thereon shall be presented by the Board to the Minister.

(3) The Board shall prepare a final report for the dissolved body in respect of the specified period and submit the report to the Minister not later than 3 months after the expiration of the specified period.

(4) The Minister shall cause copies of the accounts and both of the reports presented to him or her under this section to be laid before each House of the Oireachtas as soon as may be after his or her receipt of them.

(5) In this section “specified period” shall be the period beginning on 1 January 2012 and ending on a date, determined by the Board, that is not more than 9 months after the commencement of this Part.

40.—The Act of 2005 is amended—

(a) in section 24 by deleting subsections (5) and (6),
(b) in section 31 by deleting subsections (2) and (3), and

c) in section 32 by deleting subsections (1), (2) and (3).

41.—(1) The Board shall, not later than 30 days after the laying of accounts by the Minister under section 39(4), request the Agency to close the investment account established by the Agency under section 26(3) of the Act of 2005 and to pay moneys, if any, standing in that account into the investment account and the Agency shall so close the account and pay moneys.

(2) The Board shall not perform any functions conferred on the dissolved body under section 27 of the Act of 2005 on or after the day the investment account established under section 26(3) of the Act of 2005 is closed under subsection (1).

PART 5

Miscellaneous

42.—(1) Notwithstanding that it may not be authorised by the terms of a relevant trust the trustees of the relevant trust may make, and the Minister, with the consent of the Minister for Public Expenditure and Reform may accept, a payment of moneys where the purpose of the payment is to make a contribution towards the relevant costs.

(2) Subject to subsection (4), notwithstanding that it may not be authorised by the terms of a relevant trust the trustees of the relevant trust may transfer all or part of the estate, right, title or interest of a relevant trust in land and the Minister may, with the consent of the Minister for Public Expenditure and Reform—

(a) accept such transfer, or

(b) direct the relevant trust to make such transfer to—

(i) a Minister of the Government (other than the Minister),

(ii) the Health Service Executive, or

(iii) a Vocational Education Committee established under section 7 of the Vocational Education Act 1930,

where the purpose of the transfer is to make a contribution towards the relevant costs.

(3) Subject to subsection (4), notwithstanding that it may not be authorised by the terms of a relevant trust the trustees of the relevant trust may—

(a) sell all or part of the land vested in a relevant trust, or

(b) raise money by mortgaging or charging, by way of security for the repayment of the sum to be borrowed, all or part of the land vested in a relevant trust,
where the purpose of the sale, mortgage or charge is to enable the trustees of the relevant trust to make a contribution towards—

(i) the costs incurred by the Board in the performance of its functions by way of payment under and in accordance with section 29(2), or

(ii) the relevant costs by way of payment under and in accordance with subsection (1).

(4) (a) The trustees of a relevant trust shall not transfer land under subsection (2) or sell, mortgage or charge land under subsection (3) without seeking and obtaining the prior authorisation of the Commissioners.

(b) Notwithstanding section 34 of the Charities Act 1961 the Commissioners, upon application to them in that behalf by the trustees of the relevant trust concerned, shall if satisfied that—

(i) a proposed transfer under subsection (2) shall be in accordance with, and for the purpose referred to in, that subsection, or

(ii) a proposed sale, mortgage or charge under subsection (3) shall be in accordance with, and for the purpose referred to in, paragraph (i) or (ii) of that subsection, authorise the transfer or sale, mortgage or charge subject to any directions in relation thereto that the Commissioners see fit to impose.

(5) The following shall be a charitable gift within the meaning of the Charities Act 1961:

(a) a payment—

(i) of moneys referred to in section 29(1)(a) received by the Minister and the Minister for Public Expenditure and Reform,

(ii) under section 29(2),

(iii) under subsection (1);

(b) a transfer under subsection (2).

(6) Unless the act or omission concerned was done in bad faith, a trustee of a relevant trust shall not be liable in damages in respect of any act done or omitted to be done by him or her as trustee of the relevant trust where he or she—

(a) has made a payment of moneys referred to in section 29(1)(a) received by the Minister and the Minister for Public Expenditure and Reform,

(b) makes a payment under section 29(2),

(c) makes a payment under subsection (1),

(d) transfers land under subsection (2), or

(e) sells, mortgazes or charges land under subsection (3),
notwithstanding that the payment, transfer, sale, mortgage or charge concerned is not authorised by the terms of the relevant trust.

(7) In this section—

“Commissioners” means the Commissioners for Charitable Donations and Bequests for Ireland;

“relevant costs” means the costs incurred by the Exchequer—

(a) in response to abuse in a residential institution specified in the Schedule to the Act of 2002, or

(b) in relation to the Commission to Inquire into Child Abuse Acts 2000 and 2005;

“transfer” includes a transfer, assignment, conveyance, lease, licence, sublease, sublicence, exchange, letting, subletting or otherwise parting with possession.

43.—The Act of 2002 is amended—

(a) in section 8 by inserting the following new subsections after subsection (5) (inserted by section 1 of the Residential Institutions Redress (Amendment) Act 2011):

“(6) Notwithstanding anything contained in subsection (2) or (3), the Board may strike out a request before it to extend the period referred to in subsection (1) where the person making the request has failed to comply with a direction of the Board under subsection (7).

(7) The Board shall not, under subsection (6), strike out a request unless it gives at least 28 days’ notice in writing to the person making the request of the Board’s intention to so strike out unless the person complies with the direction of the Board contained in the notice.”,

(b) in section 13—

(i) by inserting the following new subsections after subsection (9):

“(9A) Notwithstanding that an applicant has established the matters referred to in paragraphs (a), (b) and (c) of section 7(1), the Board may decide to strike out an application before it where an applicant has failed to comply with a direction of the Board under subsection (9B).

(9B) The Board shall not, under subsection (9A), strike out an application unless it gives at least 28 days’ notice in writing to an applicant of the Board’s intention to so strike out unless the applicant complies with the direction of the Board contained in the notice.

(9C) An applicant may submit a decision, under subsection (9A), to the Review Committee within one month, or such greater period as may be prescribed, of receipt of notice from the Board of the decision.”,
and

(ii) in subsection (10)(b) by inserting the following new subparagraph after subparagraph (i):

“(ia) has his or her application struck out under subsection (9A),”;

and

(c) in section 15—

(i) in subsection (1)(c) by inserting “or 13(9C)” after “section 13(9)”, and

(ii) by inserting the following new subsection after subsection (4):

“(4A) The Review Committee, in a review of a decision referred to in section 13(9A)—

(a) shall review evidence relating to failure to comply with the direction of the Board under section 13(9B),

(b) may hear submissions on behalf of the applicant and such other evidence as it considers appropriate,

(c) shall review the decision taken by the Board and shall consider whether the decision of the Board was reasonable in all of the circumstances,

(d) may decide to—

(i) confirm the decision of the Board, or

(ii) annul the decision of the Board and give such other directions in relation thereto as the Review Committee thinks fit,

and

(e) shall inform the applicant and the Board of its decision under paragraph (d) as soon as practicable.”.
SCHEDULE

THE BOARD

1. In this Schedule, unless the context otherwise requires, “member” means a member of the Board.

2. (1) The Board shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name and shall, with the consent of the Minister and the consent of the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and shall have power to acquire, hold and dispose of other property.

(2) The seal of the Board shall be authenticated by—

(a) the signature of any 2 members of the Board, or

(b) the signature of both a member of the Board and a member of the staff of the Board,

authorised by the Board to act in that behalf.

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

3. (1) A member may at any time resign from office by giving notice in writing to the Minister and the resignation shall take effect on the day on which the Minister receives the notice.

(2) A member shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced to a term of imprisonment by a court of competent jurisdiction,

(d) is convicted of any indictable offence in relation to a company,

(e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(f) is the subject of an order under section 160 of the Companies Act 1990.

(3) If a member of the Board, a member of a committee established under paragraph 9(1) or the chief executive—

(a) is nominated as a member of Seanad Éireann,

(b) is elected as a member of either House of the Oireachtas or as a member of the European Parliament,
(c) is regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

(d) becomes a member of a local authority,

he or she thereupon ceases to be a member of the Board, the committee concerned or chief executive, as the case may be.

(4) Where a member of the staff of the Board—

(a) is nominated as a member of Seanad Éireann,

(b) is elected as a member of either House of the Oireachtas or to be a representative in the European Parliament,

(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

(d) becomes a member of a local authority,

he or she shall thereupon stand seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been so elected (as the case may be), and ending when such person ceases to be a member of either such House or a member of such Parliament or local authority.

(5) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member in the European Parliament or local authority shall, while he or she is so entitled or is such a member, be disqualified from being a member of the Board, a committee established under paragraph 9(1), the chief executive or a member of the staff of the Board.

(6) Without prejudice to the generality of subparagraph (4), that subparagraph shall be read as prohibiting inter alia the reckoning of a period mentioned in that subparagraph as service with the Board for the purposes of any superannuation benefit.

4. The Minister may at any time, on reasonable notice in writing and for stated reasons, remove from office a member of the Board (or, if the appointed member concerned is the chairperson, either from the Board or only from being chairperson) if, in the opinion of the Minister—

(a) the member has become incapable through ill-health of performing his or her functions, or

(b) the member has committed stated misbehaviour, or

(c) the member’s removal from office appears to be necessary or expedient for the effective performance by the Board of its functions.

5. (1) If a member dies, resigns, ceases to be qualified for office and ceases to hold office or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned in the same manner as the member of the Board who occasioned the casual vacancy was appointed.
2. A person appointed to be a member of the Board pursuant to subparagraph (1) shall hold office for that period of the term of office of the member who occasioned the casual vacancy concerned that remains unexpired at the date of his or her appointment and shall, subject to paragraph 3, be eligible for reappointment as a member of the Board on the expiry of the said period.

3. Subject to paragraph 6(8), the Board may act notwithstanding one or more vacancies among the members.

6. (1) The Minister shall fix the date, time and place of the first meeting of the Board.

(2) The Board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions.

(3) (a) In addition to meeting with all participants physically present, the Board may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time and such a meeting shall be referred to as an “electronic meeting”.

(b) A member who participates in an electronic meeting is taken for all purposes to be present at the meeting.

(4) The chairperson may, at any reasonable time, call a meeting of the Board and the chairperson shall convene a meeting of the Board whenever requested to do so by not less than the number of members which constitute a quorum.

(5) At a meeting of the Board—

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

(b) if and so long as the chairperson of the Board is not present or if that office is vacant, the other members of the Board who are present shall choose one of their number to be chairperson of the meeting.

(6) Every question at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting on the question, and, in the case of an equal division of votes, the chairperson shall have a second or casting vote.

(7) Subject to this Act, the Board shall regulate its procedures, including procedures for an electronic meeting, and business by rules or otherwise.

(8) The quorum for a meeting of the Board shall, unless the Minister otherwise directs, be 5.

7. (1) Where at a meeting of the Board any of the following matters arise, namely—

(a) an arrangement to which the Board is a party or a proposed such arrangement, or

(b) a contract or other agreement with the Board or a proposed such contract or other agreement,
then any member of the Board present at the meeting who, otherwise than in his or her capacity as such member, has a material interest in the matter shall—

(i) at the meeting disclose to the Board the fact of the interest and the nature thereof in advance of any consideration of the matter,

(ii) neither influence nor seek to influence a decision to be made in relation to the matter,

(iii) take no part in any deliberation of the Board in relation to the matter,

(iv) absent himself or herself from any meeting or part of a meeting during which the matter is discussed, and

(v) not vote or otherwise act on a decision relating to the matter.

(2) Where a material interest is disclosed pursuant to this paragraph, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

(3) If at a meeting of the Board a question arises as to whether or not a course of conduct, if pursued by a member, would constitute a failure by him or her to comply with subparagraph (1), the chairperson or member of the Board presiding over the meeting may determine the question and the chairperson’s or presiding member’s decision is final.

(4) If a question referred to at subparagraph (3) arises in relation to the chairperson or person presiding over a meeting, he or she shall retire from the chair and the question shall be determined by majority vote of the remaining members and in the case of subparagraph (3) or this subparagraph particulars of the determination shall be recorded in the minutes of the meeting.

(5) If the Minister is satisfied that a member of the Board has contravened subparagraph (1), the Minister may, if he or she thinks fit, remove that member from office and, in case a person is removed from office pursuant to this subparagraph, he or she shall thenceforth be disqualified from membership of the Board.

8. (1) Where a member of the staff of the Board has a pecuniary interest or other beneficial interest in, and material to, otherwise than in his or her capacity as such a member, a contract, agreement or arrangement that falls to be considered by the Board, that person shall—

(a) disclose to the Board his or her interest and the nature thereof,

(b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by the Board or members of the staff of the Board in relation thereto, and

(c) neither influence nor seek to influence a decision to be made in relation to the contract, agreement or arrangement nor make any recommendation in relation thereto.
Subparagraph (1) shall not apply to contracts or proposed contracts of employment of members of the staff of the Board with the Board.

Where a person contravenes this paragraph the Board may make such alterations to the person's terms and conditions of employment as it considers appropriate or terminate the person's contract of employment.

9. (1) The Board may establish—

(a) such advisory committees as it considers necessary or desirable to advise it in the performance of its functions, and

(b) committees to perform such functions of the Board as may stand delegated to them under paragraph 10.

A committee established under subparagraph (1) may include persons who are not members of the Board, but a majority of the members of such a committee shall be members of the Board.

In appointing members of a committee established under this paragraph, the Board shall—

(a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee,

(b) have regard to the desirability of there being such balance between men and women on the committee as is appropriate.

A member of a committee established under subparagraph (1) may be removed from office at any time by the Board.

The Board may determine the terms of reference and procedures of a committee established under subparagraph (1).

There may be paid by the Board to a member of a committee established under subparagraph (1) such allowances for expenses (if any), as the Minister, with the approval of the Minister for Public Expenditure and Reform, may from time to time determine.

The acts of a committee established under subparagraph (1) shall be subject to confirmation by the Board, unless the Board otherwise determines.

The Board may appoint a chairperson of a committee established under subparagraph (1).

A committee established under subparagraph (1) shall provide the Board with such information as the Board may from time to time require, in respect of its activities and operations, for the purposes of the performance of the functions of the Board.

The Board may at any time dissolve a committee established under subparagraph (1).

The Board may, with the consent of the Minister, delegate such one or more of its functions as it considers appropriate to a committee established under paragraph 9(1).
11. (1) This paragraph applies to the following persons:

(a) each member of the Board;

(b) each member of a committee established under paragraph 9;

(c) a member of staff of the Board.

(2) Where the Board is satisfied that a person to whom this paragraph applies has discharged the functions appropriate to that person in relation to the functions of the Board in good faith, the Board shall indemnify that person against all actions or claims however they arise in relation to the discharge by that person of those functions.
This Explanatory Memorandum does not form part of the Bill and does not purport to be a legal interpretation.

**Background**

Following the publication of the Ryan Report in May 2009, the congregations who managed the residential institutions and who were party to the 2002 Indemnity Agreement were called upon to provide further substantial contributions by way of reparation. The Government agreed to proceed with this legislation to establish a Residential Institutions Statutory Fund, to support the victims of residential institutional abuse, as endorsed by Dáil Éireann. The legislation has been prepared following a public consultation process, which included consultations with groups representing survivors of residential institutional child abuse, the religious congregations and other interested parties. Some €110 million, essentially the cash portion of the offers from the congregations, will be used to finance the Fund. To date, contributions of €21.05 million have been received towards the Statutory Fund. These and the remaining contributions to be received will be invested in an investment account to be established by the National Treasury Management Agency.

Those who received an award from the Redress Board or an award or settlement in court proceedings and who would otherwise have received an award from the Redress Board will be eligible to apply for assistance from the Fund. It is likely that in the region of 15,000 former residents will successfully complete the redress process. In response to applications from eligible former residents, the Fund can make arrangements for the provision of approved services and may pay grants to assist former residents to avail of approved services.

The Education Finance Board (EFB), which was established on a statutory basis in 2006 and is funded via the €12.7 million contribution provided by the religious congregations under the 2002 Indemnity Agreement specifically earmarked for educational support for former residents and their families, has almost completed the performance of its functions. The EFB will be dissolved and its staff will transfer to the Statutory Fund, which will assume its functions in relation to the remaining moneys available to it.
**Purpose of Bill**

The Bill is, by its long title, an Act to provide for the establishment of a body to support the needs of former residents to be known as the Residential Institutions Statutory Fund Board, and to define its functions; to provide for the making of contributions by certain persons; to amend the Residential Institutions Redress Act 2002; to amend the Commission to Inquire into Child Abuse (Amendment) Act 2005; and to provide for related matters.

**Provisions of Bill**

The Bill comprises 5 Parts and 43 sections and a Schedule.

**PART 1**

**PRELIMINARY AND GENERAL (SECTIONS 1-5)**

This Part contains general provisions such as the short title and commencement (section 1), interpretation (section 2), regulation making powers (section 4) and provisions in relation to expenses (section 5).

**Section 3 — Application** provides that the Act applies to a person, whether resident in the State or not, who received an award from the Residential Institutions Redress Board or who received an award or settlement in respect of an action arising out of any circumstances which could give rise to an application before the Board. Awards made in respect of deceased persons under section 9 of the Residential Institutions Redress Act 2002 and awards of nil amounts are not considered awards for the purpose of this Act.

**PART 2**

**RESIDENTIAL INSTITUTIONS STATUTORY FUND BOARD (SECTIONS 6-28)**

**Section 6 — Establishment of the Residential Institutions Statutory Fund Board** provides that the Minister will by order appoint a day as the day when the Residential Institutions Statutory Fund Board ("the Board") is to be established. It establishes the Board as a statutory body to perform the functions assigned to it by this Act. It also provides that the Board will, subject to this Act, be independent in the performance of its functions.

**Section 7 — Functions of Board** provides that the Board will, in a manner that promotes the principles of equity, consistency and transparency:

- use the resources available to it in the investment account to make arrangements for the provision of approved services to support the needs of former residents and pay grants to former residents in order that they may avail of approved services,

- determine what services are approved services under section 8 and the criteria for deciding applications under section 9; and

- promote understanding of the effects of abuse on former residents among those involved in the provision of approved services and publicly available services to former residents.

Provision is also made in relation to the making available of information, the evaluation of the effectiveness of approved services and consultations where the Board considers it appropriate. In performing its functions, the Board will have regard to the existence of...
publicly available services and the need to secure the most beneficial, effective and efficient use of the resources available in the investment account.

Additional functions can be conferred on the Fund by Ministerial Order, with the consent of the Minister for Public Expenditure and Reform.

The Board shall have all such powers as are necessary or expedient for the performance of its functions and may perform any of its functions through or by any member of staff of the Board. It can, with the approval of the Minister, enter into contracts and engage consultants or advisers as necessary for the performance of its functions.

Section 8 — Approved services provides that the Board can determine the approved services to be provided from the following classes of services:

(a) mental health services relating to care and treatment of a person suffering from a mental illness or a mental disorder, counselling services and psychological support services;

(b) health and personal social services, including—

- general practitioner, medical or surgical services, provided by a registered medical practitioner (within the meaning of section 2 of the Medical Practitioners Act 2007) in relation to all medical conditions,

- hospital treatment services,

- pharmacy services including the provision of drugs, medicines, medical or surgical appliances,

- nursing services provided otherwise than in a hospital,

- services to assist in the maintenance at home of a former resident who is sick or infirm who but for the provision of the service, would require to be maintained otherwise than at home,

- dental, ophthalmic or aural treatment services, including provision of a dental, ophthalmic or aural appliance, or

- ancillary services such as chiropody, chiropractic, occupational therapy, physiotherapy, podiatry or speech therapy;

(c) educational services; and

(d) housing support services, including adaptation or improvement of real property but not including financial aid for the purchase, mortgage or charge of real property.

Provision is included for the Minister to prescribe further classes of services to be added to those set out in this section. In determining approved services the Board is required to have regard to the likely effect of the services on the health and general well-being, the personal and social development, the educational development or the living conditions of former residents. The Board is also required to consider the need to specify minimum standards to be met by providers of approved services. Approved services may be provided
both within and outside of the State. The Board is required to publish and make available free of charge information on approved services.

Section 9 — Determination of criteria by Board provides that the Board shall set out the criteria by reference to which it will make decisions in relation to applications to it. In determining criteria, the Board will have regard to the need to take account of the individual circumstances, including personal and financial circumstances, of former residents and assess the likely effect of the provision of the service on the health and general well-being, personal and social development, educational development or the living conditions of former residents. Provision is also made for the application of limits to moneys to be made available for an arrangement or grant; for the specification of minimum standards to be met by service providers and for the supporting evidence that may be required from former residents. The section also provides that different criteria may be determined as respects the different circumstances of former residents and different approved services or classes of approved services. Provision is also included to allow the Board determine criteria for exceptional cases where the standard criteria may be disregarded in order to address cases of hardship. The criteria determined by the Board must be published and made available free of charge.

Section 10 — Directions of Minister provides that the Minister may, in relation to the performance of its functions by the Board, give written directions to the Board requiring it to comply with specified Government policies.

Section 11 — Membership of Board and related matters sets out the provisions in relation to membership of the Board. The Board will consist of 9 members who shall be appointed by the Minister of whom 4 must be persons, who as children, resided in an institution specified in the Schedule to the Residential Institutions Redress Act 2002. Provision is made that in appointing the other members the Minister will be required to ensure that among those members, there are people who have knowledge of, and expertise in relation to one or more of the following—

- the keeping of financial accounts and disbursement of funds,
- the management and administration of an organisation, and
- the provision of an approved service.

Provision is included to ensure, insofar as practical, an equitable balance between men and women in the composition of the Board and for the payment of allowances for expenses to members of the Board. There is no provision for the payment of remuneration to members of the Board. The Board members are required to act in utmost good faith.

Section 12 — Term of office of members provides that the maximum term of office of a member of the Board will be 4 years and that members may be reappointed but that a member may not serve more than 2 consecutive terms.

Section 13 — Chief executive provides for the appointment of the chief executive of the Board and sets out the main conditions of that appointment. The Board shall, with the approval of the Minister and the Minister for Public Expenditure and Reform, set the terms and conditions of the chief executive’s employment. It also provides that the Minister may, before the establishment day, designate a person
to be the first chief executive and the Board shall appoint that person to be the chief executive. The chief executive cannot hold any other office or employment without the Board’s consent and can attend Board meetings.

Section 14 — Functions of chief executive provides that the chief executive shall manage and control generally the administration of the Board and perform other functions determined by the Board; that the chief executive is accountable to the Board and may make proposals to the Board; shall provide such information to the Board as the Board require and also provides for the delegation by the chief executive of any of his or her functions to a staff member subject to the approval of the Board. Provision is included for the designation of a staff member, with their agreement, to perform the functions of the chief executive in the absence of the chief executive.

Section 15 — Accountability of chief executive to Public Accounts Committee is a standard provision which provides for the giving, by the chief executive, of evidence to the Public Accounts Committee.

Section 16 — Accountability of chief executive to other Oireachtas Committees is a standard provision which provides for matters relating to the attendance of the chief executive before a committee of the Oireachtas to give account for the general administration of the Board.

Section 17 — Staff of Board provides for the appointment by the Board, with the consent of the Minister and the Minister for Public Expenditure and Reform, of staff who shall be subject to such terms and conditions, and shall be paid such remuneration, as shall be determined by the Board, with the consent of the Minister and the Minister for Public Expenditure and Reform.

Section 18 — Superannuation is a standard provision which requires the Board to establish a superannuation scheme or schemes for granting superannuation benefits to or in respect of members of its staff, as it thinks fit. The Board shall submit a scheme to the Minister. If approved by the Minister, with the consent of the Minister for Public Expenditure and Reform, the scheme can be carried out by the Board.

Section 19 — Annual Report and information is a standard provision relating to the preparation by the Board of an annual report on its activities, the laying of those reports before each House of the Oireachtas and the publication of those reports on the internet. Provision is also made in the section for the provision by the Board of information to the Minister and other appropriate persons, provided that such information could not identify any individual former resident.

Section 20 — Applications to Board and associated matters provides that the Board may on application to it:

- make an arrangement with a person, whether or not the person is resident in the State, for the provision of an approved service to support the needs of a former resident;

- pay a grant to a former resident, to assist them to avail of an approved service.

Provision is made in relation to the setting down and publication of procedures to be followed when making applications to the Board, the consideration of such applications and the communication of
decisions. The section provides that the Board will only make an arrangement or pay a grant if it is satisfied that a former resident has satisfied the criteria specified by the Board and that an application has been made in accordance with procedures set down.

A decision of the Board will be made by the chief executive or a member of staff of the Board to whom the function is delegated and who will be called the “decision maker”. Decisions will be notified in writing with details of the appeals procedures.

Section 21 — Appeals officer provides for the appointment by the Minister of a suitably qualified person to be known as an “appeals officer” whose function will be to consider an appeal under section 22. An appeals officer will be independent in the performance of his or her functions. Provision is made for the payment of remuneration and allowances to an appeals officer and for the provision of support staff and their remuneration, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform. An appeals officer will submit reports to the Minister, as required, which reports will be laid before the Houses of the Oireachtas.

Section 22 — Appeals provides that appeals may be made by a person in respect of whom a decision maker decided that he or she is not a former resident or by a former resident who is otherwise aggrieved by a decision of the decision maker. Appeals must be made within 30 days of notification of the decision however the appeals officer can extend this period by a further 30 days, if satisfied that the appellant gives reasonable cause therefor. Provision is made in relation to the consideration of an appeal as if the subject of an appeal is being decided for the first time. The right of a person (including the Board) to appeal a decision to the High Court on a point of law is provided for. Provision is made for the Board to give effect to a decision on an appeal made by an appeals officer and by a decision of the High Court on an appeal.

Section 23 — Prohibition of unauthorised disclosure of information prohibits, subject to certain specified situations, the disclosure of confidential information relating to a former resident by a member of the Board, the chief executive officer and staff members, those engaged to provide consultancy advice and other services to the Board, an appeals officer and others. Confidential information is any information that refers to, or could reasonably lead to, the identification of a former resident. Unauthorised disclosure of confidential information is an offence and a person found guilty of an offence will be liable to a fine or a term of imprisonment or both.

Section 24 — Transfer of certain information from Residential Institutions Redress Board provides that the Residential Institutions Redress Board will furnish the Board with personal information regarding recipients of awards (i.e. their names, addresses and dates of birth). The Board can only use this information to determine if a person is eligible to make an application to the Board.

Section 25 — Liaison officers provides that public authorities will coordinate their activities with those of the Board. Provision is made that when requested to do so by the Board, a public authority will authorise an employee to act as a “liaison officer” to:

- advise former residents on the publicly available services provided by the authority,
provide to the Board, at its request, information in relation to
the range of publicly available services operated by the relevant
public authority, and

liaise with the Board in relation to any specific application
received by the Board.

Section 26 — False statements and offences provides that it will be
an offence to make a false statement or to furnish a false document
or information to the Board or an appeals officer, for the purpose of
obtaining an arrangement for an approved service or a grant and
that a person guilty of such an offence will be liable to a fine or a
term of imprisonment or both.

Section 27 — Application of Freedom of Information Act 1997 pro-
vides for the insertion of the Residential Institutions Statutory Fund
Board into the First Schedule to the Freedom of Information Act
1997.

Section 28 — Amendment of First Schedule to Ombudsman Act
1980 provides for the insertion of the Residential Institutions Statu-
tory Fund Board into the First Schedule to the Ombudsman Act
1980.

PART 3

FINANCIAL MATTERS (Sections 29-31)

Section 29 — Management of moneys relating to the Fund provides
that contributions received prior to the coming into operation of the
section which are now lodged in a joint account in the Central Bank
of Ireland in the name of the Minister and the Minister for Public
Expenditure and Reform together with any accrued interest will be
paid to the National Treasury Management Agency (the “Agency”)
who will establish an investment account into which the sums will be
deposited. Contributions received after the coming into operation of
the section will also be paid by the Minister, with the consent of the
Minister for Public Expenditure and Reform, to the Agency. The
total amount that can be paid to the Agency will not exceed €110
million excluding any associated interest included with contributions.
The Agency will invest the moneys in the investment account, with
the approval of the Minister for Public Expenditure and Reform.

Section 30 — Advances from Fund provides that the Agency may,
as required, advance to the Board such sums out of the investment
account that the Board requests for the purpose of defraying expen-
diture incurred in the performance of its functions. The section also
provides that the Agency will advance to the Minister from the
investment account, the sum requested by the Minister to make pay-
ments associated with the work of an appeals officer. It also provides
for the expenses of the Agency to be charged to the investment
account, with the approval of the Board.

Section 31 — Accounts and audits is a standard provision relating
to the keeping of accounts by the Board, the submission of those
accounts to the Comptroller and Auditor General, the presentation
of audited accounts and the report of the Comptroller and Auditor
General to the Minister and the laying of those accounts and that
report before each House of the Oireachtas.
This Part dissolves the Education Finance Board and transfers its functions to the Residential Institutions Statutory Fund Board.

Section 32 — Dissolution of Education (Former Residents of Certain Institutions for Children) Finance Board provides that when Part 4 of the Act is commenced the Education (Former Residents of Certain Institutions for Children) Finance Board (commonly known as the Education Finance Board and referred to in the Bill as the “dissolved body”) will be dissolved.

Section 33 — Transfer of functions to Board provides that all functions that, immediately before the commencement of Part 4, were vested in the dissolved body will be transferred to the Residential Institutions Statutory Fund Board.

Section 34 — Transfer of property is a standard provision relating to the transfer of property other than land from the dissolved body to the Residential Institutions Statutory Fund Board.

Section 35 — Transfer of rights and liabilities is a standard provision relating to the transfer of rights and liabilities of the dissolved body to the Residential Institutions Statutory Fund Board.

Section 36 — Transfer of employees provides that on the commencement of Part 4 the existing staff of the dissolved body will transfer to and become employees of the Residential Institutions Statutory Fund Board on conditions in relation to remuneration which are no less beneficial than those they were subject to immediately before the commencement.

Section 37 — Liability for loss occurring before commencement is a standard provision relating to the transfer of legal liabilities, proceedings or settlements from the dissolved body to the Residential Institutions Statutory Fund Board.

Section 38 — Provisions consequent upon transfer of functions, assets and liabilities to Board is a standard provision providing that anything commenced by or under the authority of the dissolved body may, in so far as it relates to a function transferred to the Residential Institutions Statutory Fund Board, be carried on or completed by that Board.

Section 39 — Final accounts and final annual report of dissolved body provides that the Residential Institutions Statutory Fund Board shall prepare final accounts for the dissolved body and shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the expiration of the specified period. It also provides that the Residential Institutions Statutory Fund Board shall prepare a final report for the dissolved body and submit that report to the Minister not later than 3 months after the expiration of the specified period. It provides that the Minister shall cause copies of the accounts and report to be laid before the Houses of the Oireachtas. The “specified period” is defined as the period beginning on 1 January 2012 and ending on a date that the Board determines, which is not more than 9 months after the commencement of Part 4.
Section 40 — Amendment of Commission to Inquire into Child Abuse (Amendment) Act 2005 provides for the making of a number of consequential amendments to the 2005 Act. These amendments delete a number of existing legislative provisions in relation to the dissolution of the Education Finance Board and the preparation of accounts and reports.

Section 41 — Closure of account of dissolved body and end of certain functions provides for the closure, not later than 30 days after the laying of the final accounts by the Minister before the Houses of the Oireachtas under section 39, of the investment account established under section 26(3) of the Commission to Inquire into Child Abuse (Amendment) Act 2005 and the transfer of any moneys in that account to the investment account established under section 29. The section also provides that on or after the closure of the investment account the Residential Institutions Statutory Fund Board will not perform any functions conferred on the dissolved body.

PART 5

Miscellaneous (Sections 42 and 43)

Section 42 — Charitable status of contributions to Board and to relevant costs sets out provisions relating to the charitable status of contributions by charities that ran scheduled institutions. Provision is made to enable the charities to make cash contributions whether to the Residential Institutions Statutory Fund or as contributions towards the costs of the response to residential institutional abuse and to transfer property to the Minister. Such contributions and transfers are charitable gifts and the Minister can receive same with the approval of the Minister for Public Expenditure and Reform. The charities require the approval of the Commissioners for Charitable Donations and Bequests for Ireland to sell properties and use the proceeds to make contributions or to transfer properties to the Minister. The Minister may direct that properties be transferred to other Ministers, the HSE or a VEC. The Commissioners for Charitable Donations and Bequests for Ireland are empowered to authorise property transfers as contributions towards the costs of redress and to authorise the sale of properties to realise cash contributions towards the Residential Institutions Statutory Fund or as contributions towards the costs of the response to residential institutional abuse.

Section 43 — Amendment of Residential Institutions Redress Act 2002 amends the 2002 Act to allow the Residential Institutions Redress Board to strike out a request, for an extension of time to make an application under section 8 of the Act, where the applicant fails to comply with a direction of the Board. It also amends section 13 of the Act to allow the Board to strike out an application for an award under the Act where the applicant has furnished the necessary proofs but where the applicant fails to comply with a direction of the Board. The Board is required to give at least 28 days’ notice of its intention to strike out a request under section 8 or an application under section 13. Provision is also made to allow an applicant appeal a decision of the Board to strike out an application under section 13 to the Review Committee.
SCHEDULE

THE BOARD (SECTION 11)

The Schedule sets out the particulars of membership and meetings of the Board. Provision is made for the disqualification of members in certain situations, the removal of members from office by the Minister in certain situations, the filling of casual vacancies, the quorum for meetings, the disclosure of interests by Board members and staff members, the establishment and dissolution of advisory committees, etc.

Financial Implications of the Bill

The funds to be made available to the Residential Institutions Statutory Fund Board will come from the contributions offered by religious congregations. The expenses associated with the appeals process and the costs of the Agency in managing the investment account will also be met from these contributions. Expenses incurred by the Minister in relation to the overall administration of the legislation will, with the approval of the Minister for Public Expenditure and Reform, be met from the Exchequer.

An Roinn Oideachais agus Scileanna,
Aibreán, 2012.