

**EXPLANATORY NOTE ON THE GENERAL SCHEME OF THE
FURTHER EDUCATION AND TRAINING AUTHORITY (SOLAS) BILL 2012
TO BE READ IN CONJUNCTION WITH THE HEADS OF THE BILL**

ARRANGEMENT OF HEADS

Head

1. Interpretation.
2. Establishment day.
3. Establishment of SOLAS.
4. Functions of SOLAS.
5. Provision of training by vocation education committees.
6. Conferral of additional functions on SOLAS.
7. Chief executive officer.
8. Accountability of the Chief Executive Officer of SOLAS to the Committee of Public Accounts.
9. Accountability of the Chief Executive Officer of SOLAS to other Committees of Houses of the Oireachtas.
10. Staff of SOLAS.
11. Superannuation.
12. Transfer of SOLAS staff to vocational education committees.
13. Board of SOLAS.
14. Protection from civil liability of persons who report certain misconduct.
15. Prohibition on penalisation.
16. Redress cases of penalisation of employees who make complaints against SOLAS.
17. Membership of either House of the Oireachtas or of European Parliament by members of the Staff of SOLAS.
18. Advances by Minister to SOLAS.
19. Advances by SOLAS to vocational education committees and other bodies.
20. Accounts.
21. Reports and information to Minister.
22. Strategy statement.
23. Disclosure of information.
24. Gifts.
25. Directions by Minister.
26. Transfer of certain property and liabilities of FÁS to SOLAS.
27. Transfer of SOLAS property to Vocational Education Committees.
28. Dissolution of FÁS.
29. Orders made under Industrial Training Act 1967.
30. Legal Proceedings.
31. Exemption from Stamp Duty.
32. Expenses.
33. Completion of certain matters commenced by FÁS.
34. Freedom of Information.
35. Powers of borrowing
36. Repeals.
37. Short title and commencement.

1. Interpretation.

The purpose of this provision is set out some commonly used terms to be used in the Bill.

2. Establishment day.

The purpose of this provision is to require the Minister to specify a day as the establishment day for the purposes of the Bill. This will be the day on which the new authority, to be known as SOLAS, will come into existence.

3. Establishment of SOLAS.

The purpose of this head is to provide for the formal establishment of SOLAS and to define its status as a corporate body with the usual consequent powers.

4. Functions of SOLAS.

The purpose of this head is to set down the statutory functions of the new further education and training authority.

SOLAS is to have overall strategic responsibility for the provision of further education and training in the country. It will be responsible for deciding what further education and training programmes are provided. A core part of its role will be to ensure the referral of jobseekers to appropriate courses which may be delivered by VECs or by other, including private, providers. It will provide the funding stream to VECs and those other bodies for the provision of this training.

It will have a role in auditing and quality assuring the programmes that are delivered and ensure appropriate CPD is provided. It will also have a role to carry out and commission research in this area and to provide advice to the Minister for Education and Skills.

It will also vest in SOLAS the powers set out in the Industrial Training Act, 1967 in relation to apprenticeship.

5. Provision of training by vocation education committees.

The purpose of this head is to amend section 9 of the Vocational Education (Amendment) Act 2001 (No. 23 of 2001) which deals with the functions of VECs.

It explicitly provides for a role for VECs to provide training for employment purposes and that it can carry out its activities in the State for the benefit of people not ordinarily resident in Ireland as well as provide services outside the State for people ordinarily resident in the country.

This provision will need to be considered in the context of the drafting of the Education and Training Boards Bill

6. Conferral of additional functions on SOLAS.

The purpose of this provision is to give the Minister power to confer additional functions on SOLAS by way of Ministerial Order.

7. Chief executive officer.

The purpose of this head is to provide for the chief executive officer of SOLAS. He or she will have responsibility for the management and control of the business of SOLAS. His or her terms and conditions of employment will be determined by the Minister acting with the consent of the Minister for Public Expenditure and Reform.

The first CEO will be appointed by the Minister as the board of the new body will not have been appointed. Once that board is appointed, they are free to remove the first CEO with the Minister's consent. The CEO will be an ex-officio member of the SOLAS board.

8. Accountability of the Chief Executive Officer of SOLAS to the Committee of Public Accounts

The purpose of this provision is to provide for the accountability of the CEO to the Public Accounts Committee.

9. Accountability of the Chief Executive Officer of SOLAS to other Committees of Houses of the Oireachtas

The purpose of this provision is to provide for the CEO's accountability to Oireachtas committees other than the PAC (which is dealt with in the previous head).

10. Staff of SOLAS.

The purpose of this provision is to provide for the staff of the new authority. SOLAS will appoint members of staff, set their terms and conditions, grades and numbers, etc with the consent of the Minister and the Minister for Public Expenditure and Reform.

FÁS staff who have not already transferred to the Department of Social Protection will transfer to become staff of SOLAS. Their terms and conditions will not be adversely affected merely because of the transfer.

SOLAS will perform its statutory functions through its authorised members of staff.

11. Superannuation.

The purpose of this provision is to allow for the making of a pension scheme for SOLAS staff.

12. Transfer of SOLAS staff to vocational education committees.

The purpose of this provision is to redeploy a member of SOLAS staff to a specified VEC. In doing this, the staff member's terms and conditions of employment cannot be worsened. Persons transferred from SOLAS to a VEC will become a member of that VEC's superannuation scheme and no longer be a member of the SOLAS scheme.

13. Board of SOLAS.

This head provides that the membership of SOLAS will consist of a chairperson and 10 ordinary members which include the CEO as an ex-officio member.

The members are appointed by the Minister following consultation with the Ministers for Social Protection and Jobs, Enterprise and Innovation from those with relevant experience and expertise connected with the authority's functions or finance, trade, corporate governance, etc.

The board shall include a representative of the Minister for Social Protection.

The term of office is set by the Minister but cannot exceed 5 years and a person cannot serve more than 2 terms.

If FÁS board members are appointed to SOLAS, their appointment will continue for the remainder of their term of office only.

The head sets out the grounds for removal from office and the circumstances giving rise to a disqualification from office. A member's terms and conditions of office will be determined by the Minister with the consent of the Minister for Public Expenditure and Reform.

14. Protection from civil liability of persons who report certain misconduct.

This head provides a protection for whistleblowers who report suspected serious wrongdoing in relation to SOLAS to An Garda Síochána or a member of the board.

15. Prohibition on penalisation.

This head prohibits SOLAS from victimising a person who makes a genuine complaint involving a serious matter. However, if a person knowingly makes a false statement then he or she will be guilty of an offence.

16. Redress cases of penalisation of employees who make complaints against SOLAS

This head provides a right of access to the Rights Commissioner Service (and, on appeal, to the Labour Court) where a person believes that he or she has been penalised by SOLAS for raising a genuine issue.

17. Membership of either House of the Oireachtas or of European Parliament by members of the Staff of SOLAS

This head provides that where a person is elected/appointed to certain public offices he or she will cease to be a member of the SOLAS board or, in the case of staff members, will be treated as being on secondment for the duration of his or her tenure in that public office.

18. Advances by Minister to SOLAS

The purpose of this head is to confer on the Minister power, with the consent of the Minister for Public Expenditure and Reform, to provide funding to SOLAS.

19. Advances by SOLAS to vocational education committees and other bodies

This head permits SOLAS, with the Minister's consent, to provide funding to VECs and other further education and training service providers.

20 Accounts.

This provision sets down the financial accounting requirements on SOLAS

21. Reports and information to Minister

This provision provides for an annual reporting mechanism as well as other forms of periodic reporting and furnishing of information. SOLAS will be prohibiting from

departing from the outline of its proposed activities unless the Minister's consent to do this has been secured.

22 Strategy Statement.

This provision imposes an obligation on SOLAS to prepare 3 year strategy statements which must include key objectives, outputs and outcomes; a review of outcomes and performance measurements.

23. Disclosure of information.

This provision prohibits the disclosure of information obtained by a person while working with or for SOLAS. A breach of this requirement gives rise to a criminal offence.

24. Gifts

This confers on SOLAS power to accept gifts provided that to do so is not inconsistent with its functions.

25. Directions by Minister.

This head gives the Minister a power of direction to SOLAS to require it to do, or cease from doing, a particular action. The Minister is also empowered to issue a general policy direction to SOLAS.

26. Transfer of certain property and liabilities of FÁS to SOLAS.

This head provides for the transfer of property rights and liabilities from FÁS to SOLAS on the dissolution of the former body.

27. Transfer of SOLAS property to Vocational Education Committees

The purpose of this head is to permit the Minister to transfer certain property from SOLAS to a VEC.

28. Dissolution of FÁS.

This provides for the dissolution of FÁS, the substitution in legislation of SOLAS for FÁS wherever it appears and the preparation of a final set of accounts of FÁS.

29 Orders made under Industrial Training Act 1967

This provision is intended to clarify that any rule made by FÁS under the Industrial Training Act 1967 will continue in force. This generally refers to the rules surrounding apprenticeships.

30. Legal Proceedings.

This provides for the substitution of the name FÁS with the name SOLAS in any court proceedings in being on the establishment of the new authority.

31. Exemption from Stamp Duty.

The purpose of this provision is to amend the Stamp Duties Consolidation Act 1999 in order to exempt certain transfer of property transactions from stamp duty.

32. Expenses.

This provision provides that the costs in administering the Bill's provisions will be subject to sanction by the Minister for Public Expenditure and Reform and will be met from Oireachtas moneys.

33. Completion of certain matters commenced by FÁS.

The purpose of this provision is to ensure continuity in any inchoate actions of FÁS at the time of the transfer to the new body.

34. Freedom of Information.

This head provides for the application of FOI to SOLAS and the transfer of FÁS records to SOLAS and will include an amendment of the First Schedule of the Freedom of Information Act, 1997 to include SOLAS as a body covered by FOI.

35. Powers of borrowing

This head permits SOLAS to borrow money to carry out its functions, subject to the consent of the Minister and the Minister for Public Expenditure and Reform.

36. Repeals

The Labour Services Act 1987 established FÁS and so it will be replaced in its entirety by this new Bill.

37. Short title and commencement.

This provides for the short title by which the Bill will be known and that it may be commenced in stages.