

Report to the
Minister for Education and Skills

by the

Student Grants Appeals Board

for the academic year 2011/12

March 2013

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1. INTRODUCTION

1.1 *Establishment*

The Student Grants Appeals Board was established by the Minister for Education and Skills, Ruairi Quinn TD on 8 September 2011.

The Appeals Board was established under Section 25 of the Student Support Act 2011 and is independent in the performance of its functions.

The Appeals Board currently comprises of a Chairperson and six ordinary members, all appointed in their individual capacities based on their knowledge and expertise.

The Appeals Board reviewed appeals from applicants, under the 2011 Student Grant Scheme onwards, in relation to the decision on their grant application.

1.2 *Membership*

The membership of the Appeals Board is as follows:

Ms. Maureen Waldron, Chairperson, former Director of the Department of Social Protection

Mr. Pádraic McNamara (vice-Chair), former Chief Executive Officer of the State Examinations Commission;

Dr. Marie Clarke, Lecturer, School of Education at UCD;

Ms. Rebecca Murphy, former Student Union Welfare Officer, University College Cork

Ms. Eithne Frost, Consultant in the Voluntary Sector;

Ms. Brenna Clarke, retired Professor of English at St. Patrick's College of Education;

Professor Kevin Ryan, former Registrar of the University of Limerick.

2. How does the appeal process work?

2.1 Application process

An applicant applies to an awarding authority for a grant to pursue an approved course of further or higher education. The awarding authority must determine whether the applicant is eligible to receive a grant based on the information supplied on the student grant application form and the relevant supporting documentation. The awarding authority must advise the applicant of the determination in writing.

2.2 Appeals officer

If an applicant is not satisfied with the decision on their grant they can appeal this to the appeals officer in the awarding authority, which made the decision, within 30 days. The appeals officer must make a determination within 30 days and notify the applicant in writing.

2.3 Student Grants Appeals Board

Where the appeals officer upholds the original decision, an applicant may appeal further to the Student Grants Appeals Board using a Notice of Appeal form, available from awarding authority or, on request, from the administrative support to the Appeals Board in the Department of Education and Skills.

The applicant must submit a completed Notice of Appeal form together with the written decisions of both the awarding authority and the appeals officer, to the address shown on the appeal form. These must be submitted within 30 days of the date of the appeals officer's letter. Additional information can be included but this information should also have been made available to the Appeals Officer.

The Student Grants Appeals Board has 60 days within which to make a determination on an appeal. An applicant is informed in writing of the Appeals Board's decision.

2.4 Further Appeal

Provision is made in the Student Support Act 2011 for a person to appeal the decision of the Appeals Board to the High Court against the determination on a specified point of law.

3. Appeals Board sittings for the academic year 2011/12

During 2011/12 the Appeals Board convened on fifteen separate occasions.

The Appeals Board considered a total of 441 appeals from applicants under the Student Grant Scheme 2011 during its sittings between 7th October 2011, the inaugural sitting, and the 26th July 2012, the final sitting during the 2011/12 academic year.

The Appeals Board sittings took place at intervals varying from 2 to 4 weeks: the frequency of sittings was determined by the volume of appeals submitted and the requirement that the Appeals Board make a determination on an appeal within the 60 day timeframe specified in the Student Support Act 2011.

In 2011/12 the Appeals Board upheld the decision of the appeals officer on 331 cases and overturned their decision in 74 cases. A further 22 appeals were referred for further action, either by the awarding authority or the student, and 14 appeals submitted were not appropriate for the Appeals Board to review.

4. Issues that manifested through the appeals process

4.1 Issues addressed specifically to the Minister for Education and Skills

As is to be expected in operating any new and complex set of rules and procedures, the Appeals Board became aware of a number of anomalies and possible unintended consequences with the introduction of the single grant scheme in 2011/12. The Appeals Board identified these issues to the Minister for Education and Skills for consideration as part of the review of the Student Grant Scheme 2012, in advance of the 2012/13 academic year. The following issues were raised.

(a) Special Rate of Grant

The requirement for continuous payment of specific social welfare benefits combined with the stipulation that reckonable income include an eligible social welfare payment on the 31st December may have unintended consequences. For example, if a recipient of Jobseekers Allowance was transferred to Illness Benefit, due to an illness/injury and is temporarily unavailable for employment, but returns to Jobseekers Allowance following recovery from the illness/injury, their dependents can be denied the special rate of grant if Illness Benefit was in payment on 31 December.

Outcome

The Minister provided for the inclusion of a provision of linking eligible social welfare payments with Jobseeker's Benefit and Assistance in determining whether Jobseeker's payment is continuous for a period of 12 months/391 days respectively on 31 December. The Minister sanctioned linking Jobseeker's payments with Illness Benefit for recipients who had no option but to move onto Illness Benefit during the relevant period (as he/she would have been unavailable for work). In allowing for this provision the Minister added that the Jobseeker's Benefit and Allowance may only be linked with Illness Benefit provided a period of Jobseeker's Benefit or Allowance comes directly before and directly after the period of Illness Benefit. Illness Benefit is a short-term payment that does not in itself confer eligibility for the special rate of grant outside of this provision.

The suggestion that Supplementary Welfare Allowance (SWA), where paid for at least 12 consecutive months, be introduced as an eligible payment has not been included for the 2012 Scheme. Under the change of circumstances provision of the Student Grant Scheme an applicant who is subsequently deemed eligible for a payment that qualifies a student for the special rate of grant can be paid the special rate of grant retrospectively.

(b) Independent status

Article 12(3) of the Student Grant Scheme 2011 determines an "independent student" as not ordinarily residing with their parents from 1 October of the year before the first point of entry to an approved course. A student who resides with their parents is considered dependent regardless of their age.

Outcome

With regard to the question of whether a student, once they reach a certain age, should be considered an "independent" student it was considered that students who continue to be dependent on their parents, regardless of age, continue to enjoy the benefit of a level of parental support for their living costs. In addition, this would

potentially be a very significant cost-incurring measure which could not be implemented in the current fiscal climate.

(c) Break in studies

Article 12(5) of the Student Grant Scheme 2011 permits support for a mature student entering an approved course following a break in studies of at least three years, having previously attended, but not completed, an approved course. The Appeals Board questioned whether clarification needed to be included in the “re-entry” provision to ensure that attendance on a part-time course leading to a major award is not taken account of in “a break in studies of at least three years, i.e. attending a PLC Level 5 on a part-time basis since the student previously attended an approved course.

Outcome

The “re-entry” provision of the Student Grant Scheme allows a student to return to further or higher education, as a mature student, having had a break in studies of at least three years. Attendance on a part-time course, which could lead only to a minor award, will not be taken into account in determining whether an applicant has had a break in studies. However, any student who participated on a course which could lead to a major award, whether pursued on a full or part-time basis, must have that period of study taken into account in determining whether the applicant has had a complete break in studies.

(d) General observations made

(i) Nationality

The Appeals Board has some concern regarding access opportunities for certain students arising from nationality issues. To commence to address this, the Appeals Board suggests early engagement between the relevant Departments, particularly the Departments of Education and Skills and Justice and Equality, to provide both clarity of procedures and timeliness of process for naturalisation.

Example: A person who has been granted leave to remain in the State can qualify for naturalisation after a sufficient period. However, until they have been granted naturalisation, their children cannot apply for naturalisation and will only become eligible for grant support when this is granted. Delays in this process, however caused, can greatly disadvantage applicants who have had all, or most, of their secondary education in Ireland.

(ii) Information on approved courses

Many students commit to courses in the mistaken belief that the course has a particular National Framework of Qualifications level and/or is approved for support under the student grant scheme. By the time the student has exhausted the appeals process, and becomes aware of the actual situation, they may have incurred substantial costs and inconvenience.

The Appeals Board proposed that the online application form should advise the applicant via a pop-up, at the relevant question on the grant application relating to the type of course the student wishes to pursue, that not all institutions/courses are approved for grant purposes and refer the applicant to information on institutions/courses that are approved for grant purposes.

4.2 General issues raised with the Department of Education and Skills

In preparing its submission to the Minister for Education and Skills in advance of the review of the Student Grant Scheme 2012 the Appeals Board noted other areas that it felt could be addressed by the Department. These matters are set out below together with the outcome:

(i) Special Rate of Grant

A family in receipt of Family Income Supplement (FIS), a weekly tax free payment for families who are at work and on low pay, can be disadvantaged if their income marginally exceeds the special rate threshold as the special rate of grant is substantially higher than the standard rate. For example, additional earnings of €100 can result in a loss of €2,890 per child (eligibility for the Special Rate of grant).

Outcome

Applicants in receipt of FIS already have the full value of that payment disregarded in the process of calculating reckonable income: only earned income is taken account of, this benefits such families over those in receipt of other welfare payments where their payment is not excluded.

(ii) Means

In computing reckonable income all interest or depreciation costs are 'added back'. This can result in a self-employed person who has little or no income being assessed as exceeding all grant thresholds. For example, the depreciation of industrial equipment that must be replaced regularly can be a substantial cost in a small business. Currently this is 'added back' and included in reckonable income.

Outcome

Gross income for the self-employed person is the adjusted profit of the business before any income tax or PRSI and before any payments for personal expenditure.

There is no allowance for any deduction for depreciation, tax capital allowances or tax write-downs in computing reckonable income. Capital allowances and other capital related costs, such as interest on borrowings used to purchase fixed assets, are not deductible from the adjusted profit in computing reckonable income for grant purposes.

There is no allowance for a deduction for interest on borrowings which fund the fixed assets of the business or the personal expenditure of the proprietor.

The adjusted profit of the business is the actual profit shown by the accounts plus amounts added back to reflect the income benefit where personal expenditure has been charged against the business – electricity, telephone, travel and subsistence, etc.

(iii) Information for Students

Many students commit to courses in the mistaken belief that the course has a particular NQF level and/or is approved for support under the student grant scheme. By the time they have exhausted the appeals process, and become aware of the actual situation, they may have incurred substantial costs and inconvenience.

Outcome

With the introduction of a single grant awarding authority, Student Universal Support Ireland, and an online application system students are encouraged to apply early for a grant, in advance of being offered any course, and that a provisional decision will issue. The intention is that the information available to students on courses should enable them to make informed decisions on an offer of a course place.

(iv) Adjacent/Non-adjacent Rate of grant

With the increase in the 2011 Scheme in the threshold distance for award of non-adjacent grants from 24km to 45km there is an increase in the numbers who are marginally inside that boundary. No specific system exists for determining the distance from home to college and awarding authorities have provided measures which may be contradicted by other authoritative sources.

The Appeals Board suggests that guidelines be provided by the Department on the application of the distance criterion of the Student Grant Scheme 2011.

Outcome

This suggestion was implemented and provision for guidelines for distance criterion, to establish whether a student qualifies for the adjacent or non-adjacent rate of grant was incorporated into the 2012 Scheme. Article 27(3) of the 2012 Scheme provides, as follows:

Rates and value — maintenance grants

27. (3) In accordance with article 7, full and part standard maintenance grants, and the special rates of maintenance grant, shall be payable at either adjacent or non-adjacent rates. The awarding authority shall determine the rate applicable in respect of an eligible student as follows—

(a) the adjacent rates of maintenance grant shall be payable in the case of students whose normal residence is 45 km or less from the approved institution which he or she is attending, where the distance is measured in line with guidelines agreed by the Minister;

The guidelines issued to the awarding authorities.

(v) Post Leaving Certificate Courses

The detail of awards for courses on the approved list of PLC courses causes confusion for awarding authorities in the context of determining progression for grant purposes. In some cases, the highest qualification is awarded by another body and the FETAC award, or equivalent, may not reflect the highest qualification available. It is sometimes unclear to the student whether they will be considered to satisfy the requirement of progression.

The Appeal Board suggests that steps be taken to ensure that the information provided on the list of approved PLC courses is accurate in respect of the FETAC award/or the equivalent FETAC award where the highest award is from another body.

Outcome

The Appeals Board's comments were brought to the attention of the Further Education Section of the Department as the preparation of the list of approved PLC courses is within their area of responsibility.

(vi) Taught and Research Masters

Taught masters are almost always a 'conversion' from one discipline to another, even though they normally include a research dissertation, whereas research masters represent a major step forward for a graduate into advanced research. However, Quality and Qualifications Ireland (QQI) currently rates them both as Level 9, meaning that a student cannot progress from a taught to a research masters.

Proposal: QQI be asked to reconsider the current grading and, as in the case at some other levels, Level 9 be divided into 9.1 – taught and 9.2 – research. In the meantime HEIs should be encouraged to start all research students on a Doctoral (Level 10) programme and provide an exit, with a research masters, after the first full year.

Outcome

The Department of Education and Skills will raise the matter in future communications with the QQI.

5. Statistics on appeals considered by the Appeals Board

The raw data used in the statistics have not been adjusted for the number of applicants or recipients in the awarding authority areas.

The tables in this chapter set out data on the appeals considered by the Appeals Board that were assessed by the awarding authorities (the 33 Local Authorities and 33 Vocational Education Committees) for new applicants in the 2011/12 academic year under the Student Grant Scheme 2011.

The data represents appeals considered by the Appeals Board from the date of its inaugural sitting on 7th October 2011 and the final sitting during the 2011/12 academic year on 26th July 2012. Inclusive of both dates, the Appeals Board sat on 13 occasions during the 2011/12 academic year. A total of 441 appeals were considered over that period.

Table A: Details of the awarding authority which initially dealt with the cases considered by the Appeals Board

This table sets out details on the awarding authority that carried out the assessment on the initial grant application that subsequently were appealed to the appeals officer and then the Appeals Board.

Table B: Outcome of appeals considered by the Appeals Board

The determinations of the Appeals Board is summarised in Table B. The data shown relates to the decisions to either uphold or overturn the decision of the appeals officer, to refer the appeal to either the awarding authority/appellant for further action, represents applications that were not pursued further by the appellant or was not appropriate for the Appeals Board to review.

Table C: Matters which were the subject of appeal

The basis for appeals was varied. A number of categories can be linked specifically to the Budget 2011 announcements, which were reflected in the 2011 Scheme for the first time, and the introduction of the unified single grant scheme for the 2011/12 academic year.

The Budget announcements provided that the qualifying distance criterion for entitlement to the higher non-adjacent rate of grant (distance from home to the higher education institution) increase from 15 miles (24 kilometres) to 45 kilometres in the 2011 Scheme. This also included the withdrawal of the automatic eligibility of mature students to the non-adjacent rate of grant. These measures took effect for all students from the start of the 2011/2012 academic year.

The impact of these changes is reflected in the level of appeals included in the following categories on Table C:

- (i) "45km [*adjacent/non-adjacent rate*]",
- (ii) "*Rate of grant awarded*", and
- (iii) "*Student's status [independent/dependent]*".

Table D: Distribution of overturned cases by awarding authority

The Appeals Board overturned the decision of the appeals officer in 74 cases. This table shows the 35 awarding authorities who dealt with the grant applications and initial appeal for the 74 cases and the distribution of overturned decisions.

Table E: Breakdown of overturned decisions by appeal category

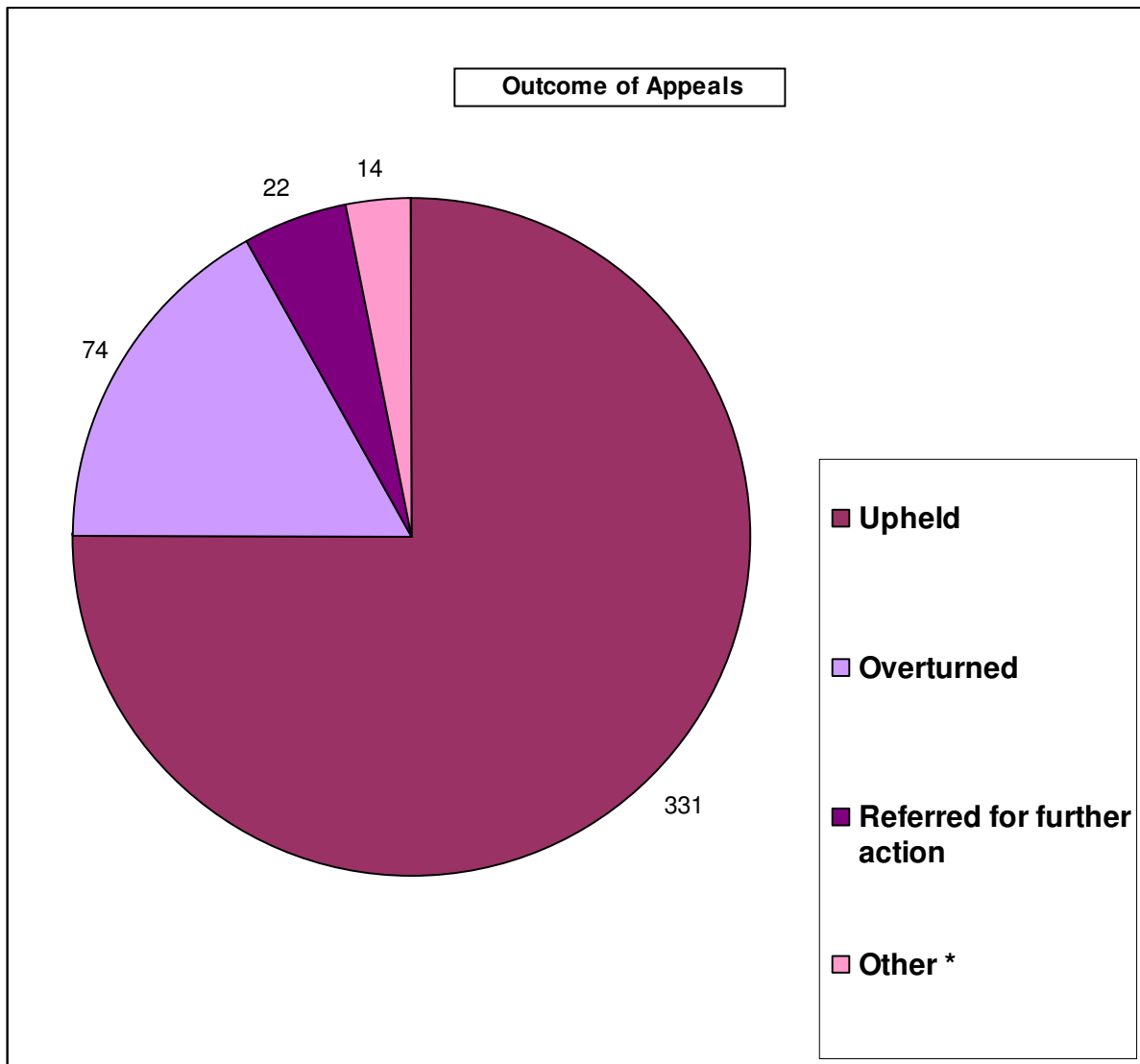
The cases where the decision was overturned by the Appeals Board are broken down into the category of appeal, in respect of the 74 overturned cases, in this table.

Table A: Details of the awarding authority who initially dealt with the cases considered by the Appeals Board



* The category of "Other" relates to 32 awarding authorities who had 5 or less appeals subsequently considered by the Appeals Board

Table B: Outcome of decisions considered by the Appeals Board



* The category of "Other" includes appeals that were not pursued further by the appellant and those that were not appropriate for the Appeals Board to review.

Table C: Matters which were the subject of appeal

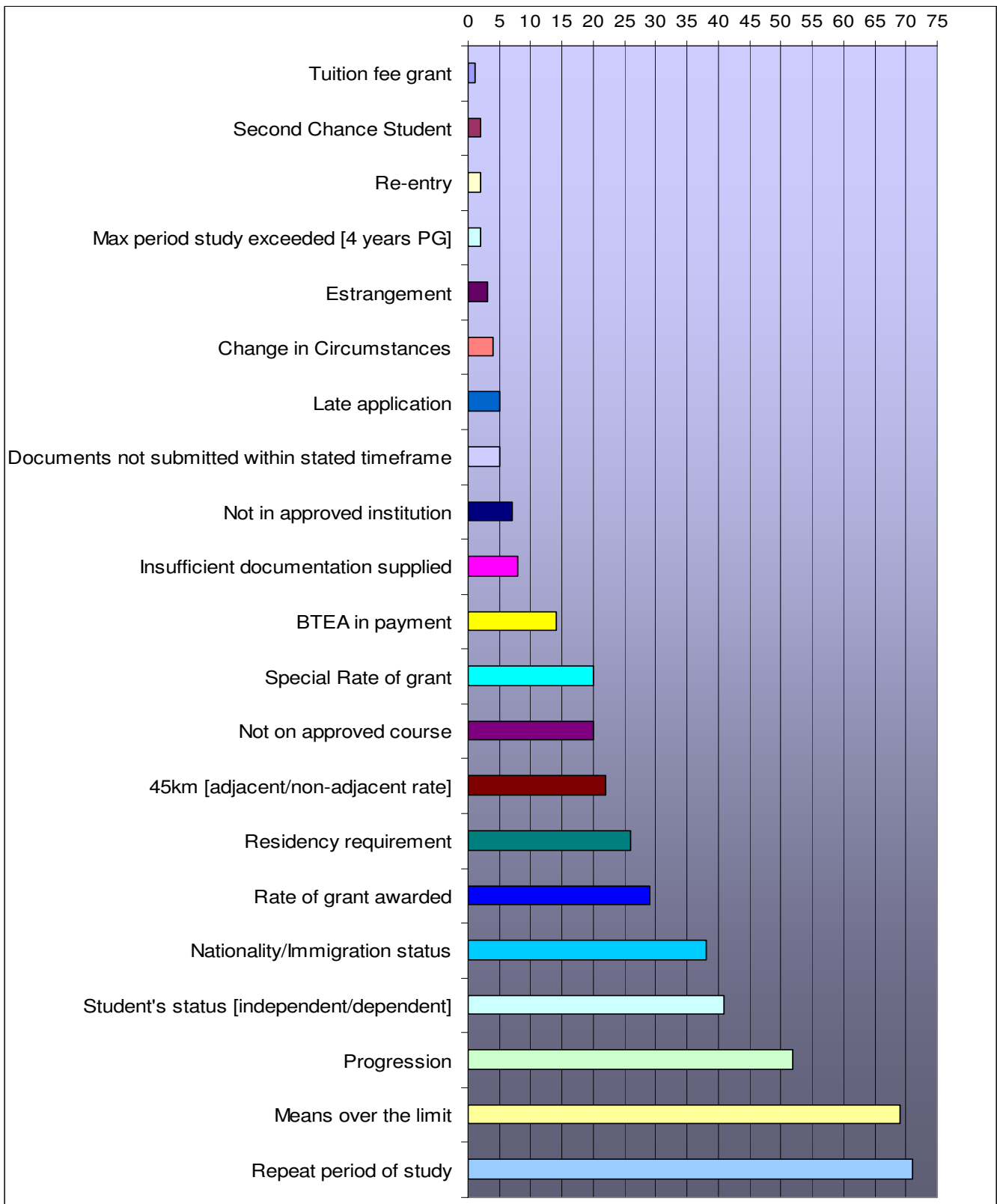


Table D: Distribution of overturned cases by awarding authority

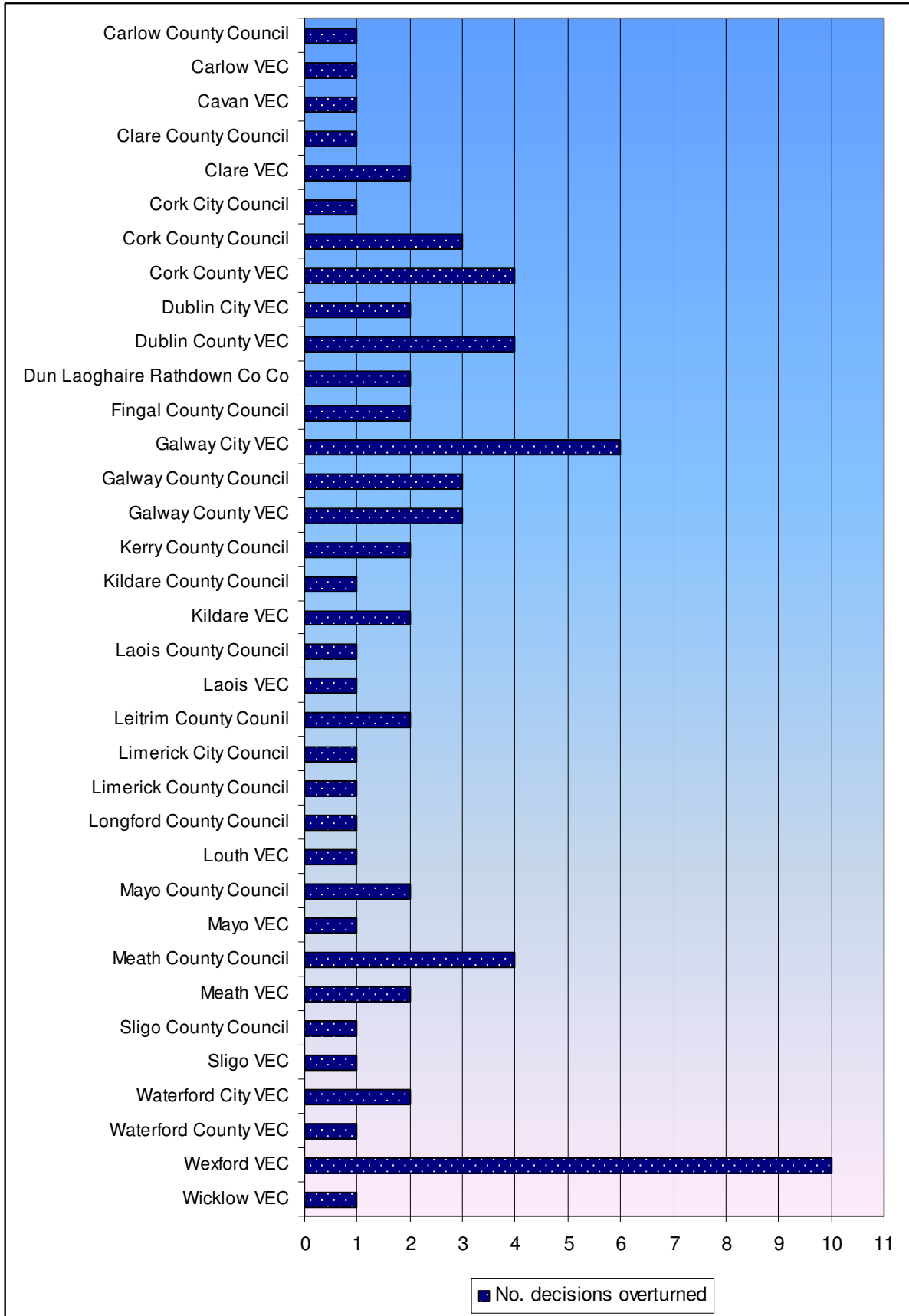
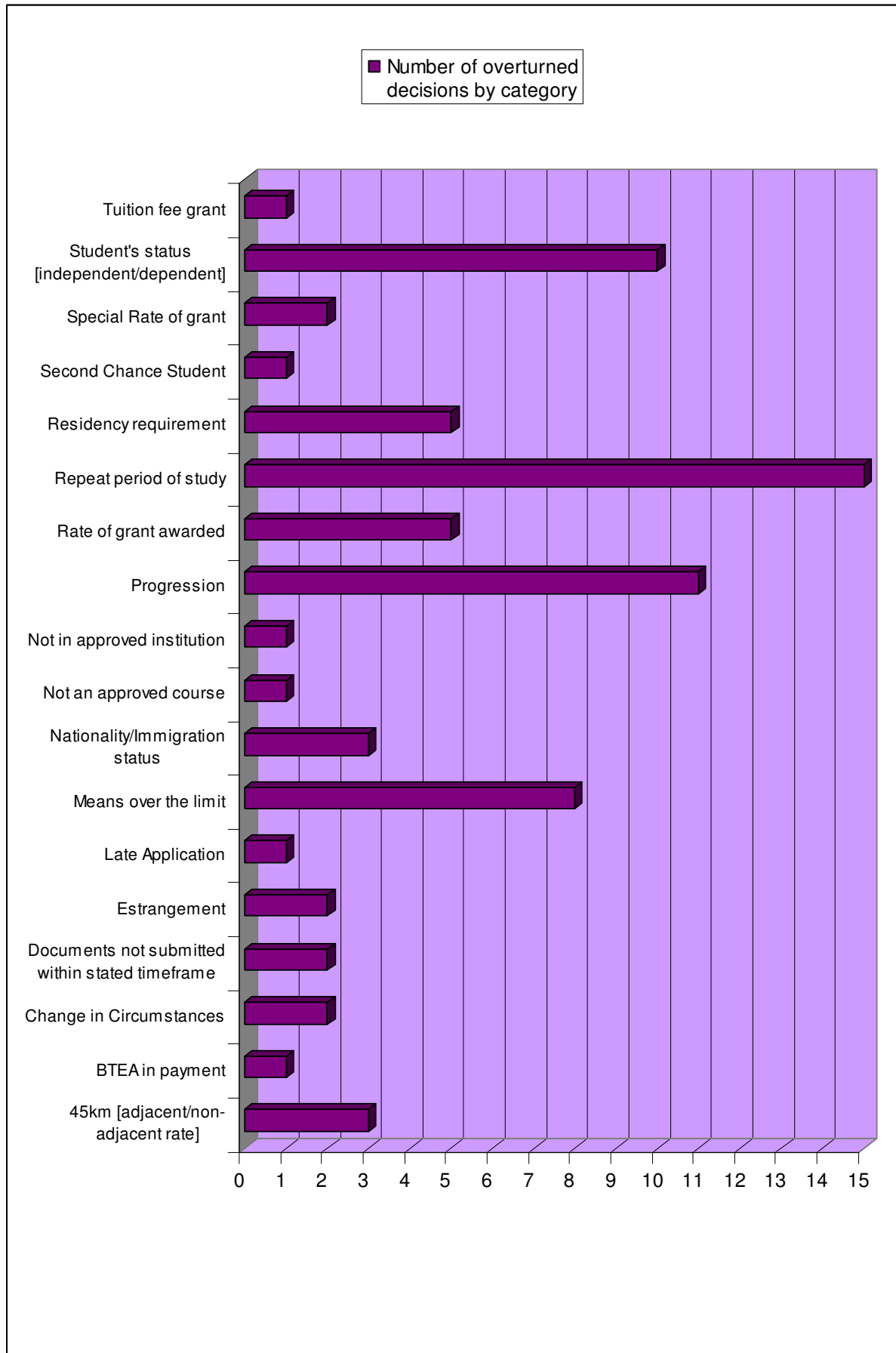


Table E: Breakdown of overturned decisions by appeal category



6. APPENDICES

Appendix 1: Student Support Act, 2011 - extract

Section 21 – Appeals to Appeals Board

21.—(1) Where an applicant or student is aggrieved by a determination of an appeals officer under *section 20(5)*, he or she may appeal to the Appeals Board against that determination.

(2) An appeal shall be made not later than 30 days after the notification of the determination of the appeals officer to the applicant.

(3) The period mentioned in *subsection (2)* may be extended by the Appeals Board (at the request in writing of the applicant) for a further period not exceeding 30 days if the Appeals Board is satisfied that the person has given reasonable cause to so extend.

(4) The Appeals Board—

(a) shall be independent in the performance of its functions under this Act,

(b) shall not be confined to the grounds on which the determination of the awarding authority or appeals officer concerned was based, but may decide the matter which is the subject of the appeal as if it were being decided for the first time,

(c) shall, as it considers appropriate, consider written or oral submissions made by the applicant or student concerned and consult with the awarding authority or appeals officer,

(d) shall make a determination within 60 days from the making of an appeal which may be a determination to—

(i) confirm the determination the subject of the appeal,

(ii) revoke the determination and replace it with such other determination as the Appeals Board considers appropriate, or

(iii) refer the matter concerned back to the awarding authority for reconsideration in accordance with such directions as the Appeals Board considers appropriate, and

(e) shall notify in writing the applicant or student and the awarding authority and appeals officer concerned, of the determination and the reasons therefor.

(5) In considering and determining an appeal under this Act, the Appeals Board shall act in accordance with such procedures as may be determined from time to time by it with the consent of the Minister.

(6) A person (including an awarding authority) aggrieved by a determination of the Appeals Board, may appeal, with the leave of the Appeals Board, or where the Appeals Board refuses such leave, with the leave of the High Court, to the High Court against the determination on a specified point of law.

(7) The awarding authority shall comply with a direction given to it under *subsection (4)*.

Appendix 2: Student Support Act, 2011 - extract

Section 25 – Student Grants Appeals Board

25.—(1) The Minister shall within 12 months from the commencement of *section 18* by order appoint a day to be the establishment day for the purposes of *subsection (2)*.

(2) On the establishment day referred to in *subsection (1)*, there shall stand established a body to be known as an Bord Achomhairc i Leith Deontas Mac Léinn, or, in the English language, the Student Grants Appeals Board (to be known and referred to in this Act as the “Appeals Board”) to consider and determine appeals made pursuant to this Act.

(3) The Appeals Board may sit in divisions of itself to consider appeals.

(4) Subject to *section 26*, the Appeals Board shall consist of a chairperson and such number of ordinary members as may be determined by the Minister but which in any case shall not exceed 11 persons.

(5) The chairperson and ordinary members of the Appeals Board shall be appointed by the Minister from among persons who have a special interest or expertise in or knowledge of matters regarding education, administration of schemes of payments or fair procedures.

(6) The term of office of the chairperson and the ordinary members of the Appeals Board shall be for such period as shall be determined by the Minister but which period shall not exceed 5 years unless the chairperson or other member sooner dies or retires.

(7) No person shall hold office as a chairperson or ordinary member of the Appeals Board for more than 2 consecutive terms of office.

(8) The chairperson or an ordinary member of the Appeals Board may—

- (a) resign by letter addressed to the Minister,
- (b) at any time be removed from office by the Minister if, in the opinion of the Minister, he or she has become incapable through ill-health of effectively performing his or her functions or has committed stated misbehaviour.

(9) Where the term of office of a member of the Appeals Board terminates otherwise than by reason of the passage of time, the period of office of the person appointed to fill the vacancy occasioned by that other’s ceasing to hold office shall be specified to be the unexpired period of that other’s term of office.

(10) The chairperson and ordinary members of the Appeals Board shall be paid such fees and allowances for expenses as the Minister, with the consent of the Minister for Finance, may determine.

(11) A member of the Appeals Board shall cease to be qualified for membership of the Appeals Board and shall cease to be such member if he or she—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors, or
- (c) is sentenced by a court of competent jurisdiction to a term of imprisonment.

(12) Where a member of the Appeals Board is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, he or she shall thereupon cease to be a member of the Appeals Board.

(13) 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 representative in the European Parliament shall, while he or she is so entitled or such a representative, be disqualified from being appointed as a member of the Appeals Board.

(14) The Minister may furnish such support of an administrative nature to the Appeals Board as in the opinion of the Minister is necessary in order that the Board may properly perform its functions.

Appendix 3: Student Support Act, 2011 - extract

Section 27 - Report of Appeals Board

27.—The Appeals Board shall submit a report of its activities to the Minister at such intervals and in such manner and form, as the Minister directs.