



Number 51 of 1998

EDUCATION ACT 1998

REVISED

Updated to 3 October 2018

This Revised Act is an administrative consolidation of the *Education Act 1998*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Mental Health (Renewal Orders) Act 2018 (23/2018)*, enacted 3 October 2018, and all statutory instruments up to and including *Education (Admission to Schools) Act 2018 (Commencement) Order 2018 (S.I. No. 396 of 2018)*, made 3 October 2018, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.



Number 51 of 1998

EDUCATION ACT 1998

REVISED

Updated to 3 October 2018

Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Education Acts 1878 to 2018: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Education (Admission to Schools) Act 2018* (14/2018), s. 1(2)). The Acts in this group are:

- *Intermediate Education (Ireland) Act 1878* (41 & 42 Vict. c. 66)
- *Intermediate Education (Ireland) Act 1882* (45 & 46 Vict. c. 69)
- *Intermediate Education (Ireland) Act 1900* (63 & 64 Vict. c. 43)
- *Intermediate Education (Ireland) Act 1913* (3 & 4 Geo. 5 c. 29)
- *Intermediate Education (Amendment) Act 1924* (47/1924)
- *Education Act 1998* (51/1998)
- *Vocational Education (Amendment) Act 2001* (9/2007), s. 36
- *Education (Miscellaneous Provisions) Act 2007* (9/2007), ss. 2-5
- *Education (Amendment) Act 2012* (14/2012), ss. 1(3) and 4-7
- *Education (Miscellaneous Provisions) Act 2015* (11/2015), s. 7
- *Teaching Council (Amendment) Act 2015* (31/2015), s. 32
- *Education (Admission to Schools) Act 2018* (14/2018), other than ss. 10, 11, 12(b)-(d)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this

revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1982, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Education (Admission to Schools) Act 2018* (14/2018)
- *Teaching Council (Amendment) Act 2015* (31/2015)
- *Education (Miscellaneous Provisions) Act 2015* (11/2015)
- *Child and Family Agency Act 2013* (40/2013)
- *Education and Training Boards Act 2013* (11/2013)
- *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012)
- *Education (Amendment) Act 2012* (14/2012)
- *Charities Act 2009* (6/2009)
- *Education (Miscellaneous Provisions) Act 2007* (9/2007)
- *Health Act 2004* (42/2004)
- *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004)
- *Education for Persons with Special Educational Needs Act 2004* (30/2004)
- *Ombudsman For Children Act 2002* (22/2002)
- *Children Act 2001* (24/2001)
- *Vocational Education (Amendment) Act 2001* (23/2001)
- *Teaching Council Act 2001* (8/2001)
- *Education (Welfare) Act 2000* (22/2000)

All Acts up to and including *Mental Health (Renewal Orders) Act 2018* (23/2018), enacted 3 October 2018, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Education Support Centres (Appointment and Secondment of Directors) (Amendment) Regulations 2018* (S.I. No. 281 of 2018)
- *Education Support Centres (Appointment and Secondment of Directors) Regulations 2017* (S.I. No. 394 of 2017)
- *Educational Research Centre (Establishment) (Amendment) Order 2017* (S.I. No. 309 of 2017)
- *Educational Research Centre (Establishment) Order 2015* (S.I. No. 392 of 2015)
- *Education Act 1998 (Section 53) (Prescribed Public Bodies) Regulations 2015* (S.I. No. 353 of 2015)
- *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2015* (S.I. No. 153 of 2015)
- *Education Act 1998 (Unregistered Persons) Regulations 2014* (S.I. No. 32 of 2014)
- *Education Act 1998 (Section 42) (Designation of Organisations) Order 2013* (S.I. No. 344 of 2013)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Education Act 1998 (Composition of National Council for Curriculum and Assessment) Order 2009* (S.I. No. 131 of 2009)
- *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2006* (S.I. No. 49 of 2006)
- *National Council for Special Education (Establishment) Order 2003* (S.I. No. 270 of 2004)
- *State Examinations Commission (Establishment) Order 2003* (S.I. No. 373 of 2003)
- *Education Act 1998 (Composition of National Council for Curriculum and Assessment) Order 2003* (S.I. No. 45 of 2003)
- *Education Act, 1998 (Composition of National Council for Curriculum and Assessment) Order 2001* (S.I. No. 247 of 2001)
- *Education Act, 1998 (National Council for Curriculum and Assessment) (Establishment Day) Order 2001* (S.I. No. 246 of 2001)

- *Education Act, 1998 (National Council for Curriculum and Assessment) (Appointment of Members) Regulations 2001* (S.I. No. 245 of 2001)
- *Education Act 1998 (Commencement) (No. 3) Order 2000* (S.I. No. 495 of 2000)
- *Education Act 1998 (Commencement) (No. 2) Order 1999* (S.I. No. 470 of 1999)
- *Education Act 1998 (Commencement) Order 1999* (S.I. No. 29 of 1999)

All statutory instruments up to and including *Education (Admission to Schools) Act 2018 (Commencement) Order 2018* (S.I. No. 396 of 2018), made 3 October 2018, were considered in the preparation of this revision.



Number 51 of 1998

EDUCATION ACT 1998
REVISED
Updated to 3 October 2018

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY AND GENERAL

Section

1. Short title and commencement.
2. Interpretation.
3. Expenses.
4. Service of notices.
5. Laying of regulations and orders.
6. Objects of Act.
7. Functions of Minister.

PART II

SCHOOLS

8. Patron of school.
9. Functions of a school.
10. Recognition of schools.
11. Withdrawal of recognition.
12. Annual funding.

PART III

THE INSPECTORATE

13. The Inspectorate.

PART IV

BOARDS OF MANAGEMENT

14. Establishment and membership of boards of management.
15. Functions of a board.
16. Dissolution by a patron.
17. Dissolution by patron at request of Minister.
18. Keeping of accounts and records.
19. Report on operation of board.
20. Report and information.
21. The school plan.

PART V

THE PRINCIPAL AND TEACHERS

22. Functions of Principal and teachers.
23. The Principal.
24. Provisions relating to staff.

PART VI

MISCELLANEOUS

25. School year, week, day.
26. Parents' association.
27. Information to students and student council.
28. Grievance and other procedures.
29. Appeals to Secretary General.
- 29A. Establishment of appeals panels and appeals committees.
- 29B. Procedures in relation to appeals.
- 29C. Review by board of decision to refuse admission.
- 29D. Appeals under *section 29(1)(a), (b) and (c)(ii)*.
- 29E. Appeals under *section 29(1)(c)(i)*.
- 29F. Miscellaneous provisions in relation to appeals under *section 29*.
30. Curriculum.
31. Teaching through Irish.
32. Educational disadvantage. (*repealed*)
33. Regulations.
34. Financial year.
35. Amendment of Intermediate Education (Ireland) Act, 1878.
36. Amendment of Vocational Education Act, 1930.
37. Education support centres.
- 37A. Additional provision in respect of children with special educational needs.

PART VII

NATIONAL COUNCIL FOR CURRICULUM AND ASSESSMENT

38. Establishment day.
39. Establishment of National Council for Curriculum and Assessment.
40. Composition and appointment.
41. Objects and functions.
42. Consultation with designated bodies.
43. Chief executive officer.
44. Staff.
45. Grants.
46. Accounts and information.
47. Committees.
48. Annual Report.

PART VIII

EXAMINATIONS

49. Interpretation.
50. Examinations.
51. Regulations.
52. Offences.
53. Refusal of access to certain information.

PART IX

BODIES CORPORATE

54. Establishment of bodies to provide services related to education.
55. Membership and staff.
56. Functions.
57. Administration.
58. Grants.
59. Revocation of establishment order.

PART X

ADMISSION TO SCHOOLS

60. Definitions.
61. Admission statement.
62. Admission policy.
63. Annual admission notice.
64. Prohibition on charging admission and enrolment fees.
65. Regulations.
66. Co-operation between boards.
67. Designation of school by Council or Child and Family Agency.

68. Direction to board and appointment of independent person by patron.
69. Direction to board by Minister.
70. Request to patron by Minister.

SCHEDULE 1

THE COUNCIL

SCHEDULE 2

EXAMINATIONS

 ACTS REFERRED TO

Adoption Acts, 1952 to 1998	
Children Acts, 1908 to 1989	
Child Care Act, 1991	1991, No. 17
Civil Service Commissioners Act, 1956	1956, No. 45
Civil Service Regulation Acts, 1956 to 1996	
European Parliament Elections Act, 1997	1997, No. 2
Guardianship of Children Acts, 1964 to 1997	
Health Act, 1970	1970, No. 1
Health Acts, 1947 to 1996	
Intermediate Education (Ireland) Act, 1878	1878, 41 & 42 Vic., c. 66
Intermediate Education (Ireland) Acts, 1878 to 1924	
Local Government Act, 1941	1941, No. 23
Ministers and Secretaries (Amendment) Act, 1956	1956, No. 21
Public Service Management Act, 1997	1997, No. 27
Trade Union Acts, 1871 to 1990	
Vocational Education Act, 1930	1930, No. 29



Number 51 of 1998

EDUCATION ACT 1998

REVISED

Updated to 3 October 2018

AN ACT TO MAKE PROVISION IN THE INTERESTS OF THE COMMON GOOD FOR THE EDUCATION OF EVERY PERSON IN THE STATE, INCLUDING ANY PERSON WITH A DISABILITY OR WHO HAS OTHER SPECIAL EDUCATIONAL NEEDS, AND TO PROVIDE GENERALLY FOR PRIMARY, POST-PRIMARY, ADULT AND CONTINUING EDUCATION AND VOCATIONAL EDUCATION AND TRAINING; TO ENSURE THAT THE EDUCATION SYSTEM IS ACCOUNTABLE TO STUDENTS, THEIR PARENTS AND THE STATE FOR THE EDUCATION PROVIDED, RESPECTS THE DIVERSITY OF VALUES, BELIEFS, LANGUAGES AND TRADITIONS IN IRISH SOCIETY AND IS CONDUCTED IN A SPIRIT OF PARTNERSHIP BETWEEN SCHOOLS, PATRONS, STUDENTS, PARENTS, TEACHERS AND OTHER SCHOOL STAFF, THE COMMUNITY SERVED BY THE SCHOOL AND THE STATE; TO PROVIDE FOR THE RECOGNITION AND FUNDING OF SCHOOLS AND THEIR MANAGEMENT THROUGH BOARDS OF MANAGEMENT; TO PROVIDE FOR AN INSPECTORATE OF SCHOOLS; TO PROVIDE FOR THE ROLE AND RESPONSIBILITIES OF PRINCIPALS AND TEACHERS; TO ESTABLISH THE NATIONAL COUNCIL FOR CURRICULUM AND ASSESSMENT AND TO MAKE PROVISION FOR IT, AND TO PROVIDE FOR RELATED MATTERS. [23rd December, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Functions under certain provisions transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.
2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.
- (2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.
3. The functions conferred on the Minister for Finance by or under the provisions of —
- (a) the enactments specified in Schedule 1, and
 - (b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...
No. 51 of 1998	Education Act 1998	Sections 12(1), 13(12), 23(1), 24(2)(5) and (6), 31(2) and (6), 32(7), 43(3), 44(1) and (2), 45, 46(1) and 58; Schedule 1, paragraph 9
...

- C2** Functions of Inspectors under Act applied with modifications by *Children Act 2001* (24/2001), s. 159A(5), as inserted (1.03.2007) by *Criminal Justice Act 2006* (26/2006), s. 147, S.I. No. 65 of 2007.

Education of children in children detention school, residential centres, etc.

159A.—...

(5) The functions of an Inspector within the meaning of the Education Act 1998 apply, with any necessary modifications, in relation to education facilities provided in respect of any transferred premises.

...

Editorial Notes:

- E1** Power to apply for inquiry into fitness to teach of registered teacher for non-compliance with any provisions of Act prescribed by *Teaching Council Act 2001* (8/2001), s. 42(1)(a), S.I. No. 407 of 2016, as substituted (25.07.2016) by *Teaching Council (Amendment) Act 2015* (31/2015), s. 20(a), S.I. No. 408 of 2016.

PART I

PRELIMINARY AND GENERAL

Short title and commencement.

1.—(1) This Act may be cited as the Education Act, 1998.

(2) Subject to *subsection (3)*, this Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed either generally or with reference to any particular purpose, function, provision or class of school, and different days may be so fixed for different purposes, functions or provisions of this Act or different classes of schools.

(3) This Act shall come into operation in respect of any purpose, function, provision or class of school, with reference to which the Minister has not made an order under *subsection (2)*, two years from the date of its passing.

(4) As soon as practicable after the end of the first and second years following the date of passing of this Act, the Minister shall prepare a report on the implementation of the Act and shall cause copies of the report to be laid before each House of the Oireachtas.

(5) The Intermediate Education (Ireland) Acts, 1878 to 1924 and this Act may be cited together as the Education Acts, 1878 to 1998, and shall be construed together as one.

Annotations

Editorial Notes:

- E2** Power pursuant to section exercised (22.12.2000) by *Education Act, 1998 (Commencement) (No. 3) Order 2000* (S.I. No. 495 of 2000).

2. The twenty second day of December 2000 is hereby fixed as the day on which sections 1 , 8 , 10 , 11 , 12 , 18 , 29 and 32 of the Education Act, 1998 (No. 51 of 1998), shall come into operation.

- E3** Power pursuant to section exercised (23.12.1999) by *Education Act, 1998 (Commencement) (No. 2) Order 1999* (S.I. No. 470 of 1999).

2. The 23rd day of December, 1999, is hereby fixed as the day on which sections 7 , 9 , 14 , 15 , 16 , 17 , 19 , 20 , 21 , 22 , 23 , 24 , 27 , 28 , 30 , 31 , 33 , 34 , 35 , and Part VII of the Education Act, 1998 (No. 51 of 1998) shall come into operation.

- E4** Power pursuant to section exercised (5.02.1999) by *Education Act, 1998 (Commencement) Order 1999* (S.I. No. 29 of 1999).

2. The fifth day of February, 1999, is hereby fixed as the day on which sections 2 , 3 , 4 , 5 , 6 , 13 , 25 , 26 , 36 and 37 and Parts VIII and IX of the Education Act, 1998 (No. 51 of 1998), shall come into operation.

Interpretation. **2.—(1)** In this Act, except where the context otherwise requires—

“articles of management” means any instruments, relating to the operation and management of schools, as are in operation on the commencement of this Act and as shall be agreed from time to time by patrons of schools, national associations of parents and recognised trade unions and staff associations representing teachers;

“board” means a board of management established under *section 14*;

“centre for education” means a place, other than a school or a place providing university or other third level education, where adult or continuing education or vocational education or training, is provided and which is designated for that purpose under *section 10(4)*;

“characteristic spirit” means the characteristic spirit referred to in *section 15 (2) (b)*;

“Council” means the body established under *section 39*;

“curriculum” shall be construed in accordance with *section 30*;

F1 [‘disability’ means, in relation to a person, a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition and cognate words shall be construed accordingly;]

F2[‘educational disadvantage’ means the impediments to education arising from social or economic disadvantage which prevent students from deriving appropriate benefit from education in schools;]

“examination” has the meaning assigned to it by *section 49*;

“functions” includes powers and duties;

“Gaeltacht area” means an area for the time being determined to be a Gaeltacht area by order made under section 2 of the Ministers and Secretaries (Amendment) Act, 1956;

“Inspector” means a member of the Inspectorate;

“Inspectorate” means the Inspectorate appointed under *section 13*;

“Minister” means the Minister for Education and Science;

“national association of parents” means an association or other body of persons established by parents with objects which include representing the views and interests of parents with regard to education and assisting parents in exercising their rights and role in the process of the education of their children, that is—

(a) established and organised on a national basis and has a membership distributed over a substantial part of the State, and

(b) for the time being recognised by the Minister for the purposes of this Act, including the National Parents Council - Primary and the National Parents Council (Post-Primary) Limited, being bodies for the time being so recognised;

“National Council for Curriculum and Assessment” means the body established in accordance with *section 39*;

“parent” includes a foster parent, a guardian appointed under the Guardianship of Children Acts, 1964 to 1997, or other person acting in *loco parentis* who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter;

“parents' association” means an association to which *section 26* applies;

“patron” has the meaning assigned to it by *section 8*;

“prescribed” means prescribed by regulations made by the Minister and cognate words shall be construed accordingly;

F3[‘Principal’ means a person appointed to be a Principal;]

“recognised school” means a school which is recognised by the Minister in accordance with *section 10*;

“recognised school management organisations” means those bodies as may be established for the purpose of representing the interests of persons engaged in the management of schools and which are recognised by the Minister for the purposes of this Act;

“recognised trade union” means a trade union licensed under the Trade Union Acts, 1871 to 1990, that stands recognised for consultation purposes;

“school” means an establishment which—

(a) provides primary education to its students and which may also provide early childhood education, or

(b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training,

but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by F4[the Health Service Executive] in accordance with the Health Acts, 1947 to 1996, or F5[the Child and Family Agency in accordance with the Child Care Act 1991];

“school plan” has the meaning assigned to it by *section 21(1)*;

“school week” means the period of time during a week when a school is open for the reception of students;

“school year” means such twelve month period commencing on a day that falls between the first day of July and the first day of October in any year as may be prescribed from time to time by the Minister, either generally or in respect of any school or class of school;

“special educational needs” means the educational needs of students who have a disability and the educational needs of exceptionally able students;

“student”, in relation to a school, means a person enrolled at the school and in relation to a centre for education, means a person registered as a student in that centre;

“support services” means the services which the Minister provides to students or their parents, schools or centres for education in accordance with *section 7* and shall include any or all of the following:

(a) assessment of students;

(b) psychological services;

(c) guidance and counselling services;

(d) technical aid and equipment, including means of access to schools, adaptations to buildings to facilitate access and transport, for students with special needs and their families;

(e) provision for students learning through Irish sign language or other sign language, including interpreting services;

(f) F6[...]

(g) provision for early childhood, primary, post-primary, adult or continuing education to students with special needs otherwise than in schools or centres for education;

(h) teacher welfare services;

(i) transport services;

(j) library and media services;

(k) school maintenance services;

(l) examinations provided for in *Part VIII*;

(m) curriculum support and staff advisory services, and

F7[(n) such other services as are specified by this Act or considered appropriate by the Minister, or both, but which shall not include health and personal social services within the meaning of the Health Act 2004;]

“teacher” includes a Principal;

F8[...]

- (2) (a) In this Act a reference to a Part, section or a Schedule is a reference to a Part or section of or a Schedule to this Act, unless it is indicated that a reference to some other Act is intended.
- (b) In this Act a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.
- (3) A reference in this Act to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

Annotations

Amendments:

- F1** Substituted (14.07.2005) by *Education for Persons with Special Educational Needs Act 2004* (30/2004), s. 52, S.I. No. 507 of 2005.
- F2** Substituted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 4(a), S.I. No. 190 of 2012.
- F3** Substituted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 4(b), S.I. No. 190 of 2012.
- F4** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 7 part 8 item 1, S.I. No. 887 of 2004.
- F5** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 11 item 1, S.I. No. 502 of 2013.
- F6** Deleted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 4(c)(i), S.I. No. 190 of 2012.
- F7** Substituted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 4(c)(ii), S.I. No. 190 of 2012.
- F8** Deleted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 27, S.I. No. 211 of 2013.
- F9** Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 2, not commenced as of date of revision.
- F10** Inserted by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 2, not commenced as of date of revision.

Modifications (not altering text):

- C3** Prospective affecting provision: definition inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 2, not commenced as of date of revision.
- F9**['admission policy' has the meaning assigned to it by section 62 (inserted by section 9 of the *Education (Admission to Schools) Act 2018*);]
- C4** Prospective affecting provision: subs. (1) amended by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 2, not commenced as of date of revision.
- 2.**—(1) In this Act, except where the context otherwise requires—
- F10**[' Act of 2000 ' means the *Education (Welfare) Act 2000*;]

...

- Expenses. **3.**—Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be approved of by the Minister for Finance, be paid out of monies provided by the Oireachtas.
- Service of notices. **4.**—Where a notice, direction or other document is authorised or required by or under this Act or regulations made thereunder to be served on a person, it shall, unless otherwise specified in this Act, be addressed to the person and shall be served on or given to the person in one of the following ways—
- (a) where it is addressed to the person by name, by delivering it to the person, or
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address, or
 - (c) by sending it by ordinary prepaid post addressed to the person at the address at which the person ordinarily resides, or in a case in which an address for service has been furnished, at that address.
- Laying of regulations and orders. **5.**—Every regulation and every order made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- Objects of Act. **6.**—Every person concerned in the implementation of this Act shall have regard to the following objects in pursuance of which the Oireachtas has enacted this Act:
- (a) to give practical effect to the constitutional rights of children, including children who have a disability or who have other special educational needs, as they relate to education;
 - (b) to provide that, as far as is practicable and having regard to the resources available, there is made available to people resident in the State a level and quality of education appropriate to meeting the needs and abilities of those people;
 - (c) to promote equality of access to and participation in education and to promote the means whereby students may benefit from education;
 - (d) to promote opportunities for adults, in particular adults who as children did not avail of or benefit from education in schools, to avail of educational opportunities through adult and continuing education;
 - (e) to promote the right of parents to send their children to a school of the parents' choice having regard to the rights of patrons and the effective and efficient use of resources;
 - (f) to promote best practice in teaching methods with regard to the diverse needs of students and the development of the skills and competences of teachers;
 - (g) to promote effective liaison and consultation between schools and centres for education, patrons, teachers, parents, the communities served by schools, local authorities, F11[the Health Service Executive], F12[the Child and Family Agency,] persons or groups of persons who have a special interest in, or experience of, the education of students with special educational needs and the Minister;
 - (h) to contribute to the realisation of national educational policies and objectives;

- (i) to contribute to the realisation of national policy and objectives in relation to the extension of bi-lingualism in Irish society and in particular the achievement of a greater use of the Irish language at school and in the community;
- (j) to contribute to the maintenance of Irish as the primary community language in Gaeltacht areas;
- (k) to promote the language and cultural needs of students having regard to the choices of their parents;
- (l) to enhance the accountability of the education system, and
- (m) to enhance transparency in the making of decisions in the education system both locally and nationally.

Annotations

Amendments:

- F11** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 7 part 8 item 2, S.I. No. 887 of 2004.
- F12** Inserted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 11 item 2, S.I. No. 502 of 2013.

Functions of
Minister.

7.—(1) Each of the following shall be a function of the Minister under this Act:

- (a) to ensure, subject to the provisions of this Act, that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person,
- (b) to determine national education policy, and
- (c) to plan and co-ordinate—
 - (i) the provision of education in recognised schools and centres for education, and
 - (ii) support services.

(2) Without prejudice to the generality of *subsection (1)*, each of the following shall be a function of the Minister:

- (a) to provide funding to each recognised school and centre for education and to provide support services to recognised schools, centres for education, students, including students who have a disability or who have other special educational needs, and their parents, as the Minister considers appropriate and in accordance with this Act;
- (b) to monitor and assess the quality, economy, efficiency and effectiveness of the education system provided in the State by recognised schools and centres for education, having regard to the objects provided for in *section 6* and to publish, in such manner as the Minister considers appropriate, information relating to such monitoring and assessment;
- (c) to lease land or buildings to any person or body of persons for the purpose of establishing a school without prejudice to the establishment by patrons of schools which are situated on land or in buildings which are not leased to them by the Minister, the extension and further development of such schools

- when established and the recognition of such schools in accordance with *section 10*;
- (d) to provide support services through Irish to recognised schools which provide teaching through Irish and to any other recognised school which requests such provision;
- (e) to perform such other functions as are specifically provided for by this Act or any other enactment, and
- (f) to do all such acts and things as may be necessary to further the objects for which this Act is enacted.
- (3) The Minister shall have all such powers as are necessary or expedient for the purpose of performing his or her functions.
- (4) In carrying out his or her functions, the Minister—
- F13[(a) shall have regard to—
- (i) the resources available,
- (ii) the need to secure, as far as possible, that the education system provides—
- (I) best practice in teaching methods,
- (II) value for money, and
- (III) quality outcomes for students,
- by setting standards for those engaged in the provision of education, including the determination both of procedures and such other matters as are provided for by this Act,
- (iii) the provision for education and training made by other agencies with funds provided by the Oireachtas,
- (iv) the need to reflect the diversity of educational services provided in the State, and
- (v) the practices and traditions relating to the organisation of schools or groups of schools existing at the commencement of this Part and the right of schools to manage their own affairs in accordance with this Act and any charters, deeds, articles of management or other such instruments relating to their establishment or operation,
- and]
- (b) shall make all reasonable efforts to consult with patrons, national associations of parents, parents' associations in schools, recognised school management organisations, recognised trade unions and staff associations representing teachers and such other persons who have a special interest in or knowledge of matters relating to education, including persons or groups of persons who have a special interest in, or experience of, the education of students with special educational needs, as the Minister considers appropriate.
- F14[(5) F15[...]
- (6) F15[...]]

Annotations**Amendments:**

- F13** Substituted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 5(a), S.I. No. 190 of 2012.
- F14** Inserted (14.07.2005) by *Education for Persons with Special Educational Needs Act 2004* (30/2004), s. 40, S.I. No. 507 of 2005.
- F15** Deleted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 5(b), S.I. No. 190 of 2012.

Editorial Notes:

- E5** Previous affecting provision: subss. (5) and (6) amended (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 7 part 8 item 3, S.I. No. 887 of 2004; deleted as per F-note above.

PART II

SCHOOLS

Patron of school. **8.—(1) (a)** The person who, at the commencement of this section, is recognised by the Minister as the patron of a primary school, and

(b) the persons who, at the commencement of this section, stand appointed as trustees or as the board of governors of a post-primary school and, where there are no such trustees or such board, the owner of that school,

shall be deemed to be the patron for the purposes of this Act and the Minister shall enter his, her or their name, as appropriate, in a register kept for that purpose by the Minister.

(2) In any case other than that provided in *subsection (1)*, the patron of a recognised school shall be the person who requested recognition of the school or a nominee of such person and the name of that person shall be entered in the register.

(3) The Minister may amend the register in respect of any school on the application of the person who stands for the time being registered as the patron or of the successor to that person.

(4) In the case of a school established or maintained by F16[an education and training board, that board] shall be the patron of the school for the purposes of this Act.

(5) Where two or more persons exercise the functions of a patron they may be registered as joint patrons.

(6) The patron of a school shall carry out the functions and exercise the powers conferred on the patron by this Act and such other functions and powers as may be conferred on the patron by any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school.

(7) In this section—

“person” includes a body of persons;

“school” includes a proposed school.

Annotations**Amendments:**

F16 Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 27, S.I. No. 211 of 2013.

Functions of a school.

9.—A recognised school shall provide education to students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to—

- (a) ensure that the educational needs of all students, including those with a disability or other special educational needs, are identified and provided for,
- (b) ensure that the education provided by it meets the requirements of education policy as determined from time to time by the Minister including requirements as to the provision of a curriculum as prescribed by the Minister in accordance with *section 30*,
- (c) ensure that students have access to appropriate guidance to assist them in their educational and career choices,
- (d) promote the moral, spiritual, social and personal development of students and provide health education for them, in consultation with their parents, having regard to the characteristic spirit of the school,
- (e) promote equality of opportunity for both male and female students and staff of the school,
- (f) promote the development of the Irish language and traditions, Irish literature, the arts and other cultural matters,
- (g) ensure that parents of a students, or in the case of a student who has reached the age of 18 years, the student, have access in the prescribed manner to records kept by that school relating to the progress of that student in his or her education,
- (h) in the case of schools located in a Gaeltacht area, contribute to the maintenance of Irish as the primary community language,
- (i) conduct its activities in compliance with any regulations made from time to time by the Minister under *section 33*,
- (j) ensure that the needs of personnel involved in management functions and staff development needs generally in the school are identified and provided for,
- (k) establish and maintain systems whereby the efficiency and effectiveness of its operations can be assessed, including the quality and effectiveness of teaching in the school and the attainment levels and academic standards of students,
- (l) establish or maintain contacts with other schools and at other appropriate levels throughout the community served by the school, and
- (m) subject to this Act and in particular *section 15 (2) (d)*, establish and maintain an admissions policy which provides for maximum accessibility to the school.

Annotations**Amendments:**

- F17** Substituted by *Education (Admission to Schools) Act 2018* (14/2018), s. 3(a), not commenced as of date of revision.
- F18** Deleted by *Education (Admission to Schools) Act 2018* (14/2018), s. 3(b), not commenced as of date of revision.

Modifications (not altering text):

- C5** Prospective affecting provision: paras. (i) and (m) amended by *Education (Admission to Schools) Act 2018* (14/2018), s. 3, not commenced as of date of revision.
- (i) conduct its activities in compliance with any regulations made from time to time by the Minister under F17[under this Act],
- ...
- (m) subject to this Act F18[...], establish and maintain an admissions policy which provides for maximum accessibility to the school.

Editorial Notes:

- E6** Power of Ombudsman for Children to investigate school in connection with performance of functions under section prescribed (25.04.2004) by *Ombudsman for Children Act 2002* (22/2002), s. 9(1)(a), S.I. No. 925 of 2004.

Recognition of schools.

10.—(1) On a request being made for that purpose, the Minister may from time to time designate a school or a proposed school to be a school recognised for the purposes of this Act.

(2) The Minister may designate a school or a proposed school to be a school recognised for the purposes of this Act where the Minister, on a request being made for that purpose by the patron of a school or a proposed school, is satisfied that—

- (a) the number of students who are attending or are likely to attend the school is such or is likely to be such as to make the school viable,
- (b) in the case of a proposed school, and having regard to the desirability of diversity in the classes of school operating in the area likely to be served by the school, the needs of students attending or likely to attend the school cannot reasonably be met by existing schools,
- (c) the patron undertakes that the school shall provide the curriculum as determined in accordance with *section 30*,
- (d) the patron agrees to permit and co-operate with regular inspection and evaluation by the Inspectorate,
- (e) the school complies, or in the case of a proposed school shall comply, with health, safety and building standards as are determined by law and any further such standards as are determined from time to time by the Minister, and
- (f) the patron agrees that the school shall operate in accordance with such regulations as may be made by the Minister from time to time under *section 33* and with this Act and with any other terms and conditions as may reasonably be attached to recognition by the Minister.

(3) A school that, on the commencement of this section, is in receipt of funds provided by the Oireachtas in respect of—

(a) the education activities for students of that school, or

(b) the remuneration of teachers in that school,

shall be deemed to be a school recognised in accordance with this section.

(4) The Minister may from time to time designate a place to be a centre for education.

Annotations

Amendments:

F19 Substituted by *Education (Admission to Schools) Act 2018* (14/2018), s. 4, not commenced as of date of revision.

Modifications (not altering text):

C6 Prospective affecting provision: subs. (2)(f) amended by *Education (Admission to Schools) Act 2018* (14/2018), s. 4, not commenced as of date of revision.

(f) the patron agrees that the school shall operate in accordance F19[with this Act and such regulations as may be made by the Minister from time to time under this Act] and with any other terms and conditions as may reasonably be attached to recognition by the Minister.

Editorial Notes:

E7 Centres designated under subs. (4) exempted from accounting requirements under *Charities Act 2009* (16.10.2014) by *Charities Act 2009* (6/2009), s. 48(6)(d), S.I. No. 457 of 2014.

Withdrawal of recognition,

11.—(1) Where the Minister is satisfied that the requirements for recognition of a school as provided for in *section 10 (2)* are not being met by a school, including a school recognised in accordance with *section 10 (3)*, or that the functions of a school are not being effectively discharged and is of the opinion that recognition should be withdrawn from that school, the Minister shall inform the board, the patron, the teachers, the student council where one exists and the parents of students in that school by notice in writing of that opinion and the reasons for the opinion.

(2) If, after the expiration of three months from the date of the notice issued under *subsection (1)*, and, after consideration of any representations made to the Minister by the board or the patron of the school, the teachers or the parents or the student council where one exists, the Minister remains of the said opinion, the Minister may withdraw recognition from the school by notice in writing addressed to the board and the patron of the school, and such notice shall be effective on and from the last day of the school year following the school year in which the notice was addressed to the board or such later date as the Minister may determine.

(3) It shall be the duty of the Minister in respect of a school from which recognition has been withdrawn to arrange to make alternative and appropriate education facilities available for those students who were enrolled in the school on the date of such withdrawal and who require those facilities.

(4) Where the Minister is satisfied that a school from which recognition has been withdrawn satisfies the requirements for recognition of a school as provided for in *section 10*, and that the functions of the school will be effectively discharged, the Minister may restore recognition to that school, provided that such restoration of recognition shall not entitle that school or any person employed in the school to receive any payment out of monies provided by the Oireachtas in relation to the period subsequent to the withdrawal of recognition and prior to the restoration of recognition.

Annual funding. **12.—**(1) The Minister, with the concurrence of the Minister for Finance, shall determine and publish in each school year criteria by which any class or classes of recognised schools or centres for education are to be funded in the following school year from monies provided by the Oireachtas and such criteria shall allow for the payment of additional monies to recognised schools having regard to the level of educational disadvantage of students in the schools.

(2) Except as otherwise provided by this Act, the Minister shall, in each school year by such date or dates as shall be determined by the Minister, make to each recognised school or centre for education a grant or grants, which accords with the criteria determined pursuant to this section, from monies provided by the Oireachtas in accordance with this Act, for the purposes of carrying on that school or centre for education.

(3) A grant or grants shall not be made unless the school is a recognised school at the date that such grant or grants are to be made.

(4) Except as otherwise provided in this Act, where, on the commencement of this section, arrangements are in place whereby grants are provided by the Minister to a body of persons which disburses such grants to two or more recognised schools, then nothing in this Act shall operate to alter such arrangements except with the agreement of that body or its successor.

(5) Where *subsection (4)* applies, the Minister shall, from monies provided by the Oireachtas, make such grant or grants to the body referred to in that subsection or its successor of an amount equal to the amount which, but for this subsection, would have been made to schools under *subsection (2)* and any such grant or grants shall be applied by that body for the benefit of students in those schools.

PART III

THE INSPECTORATE

The Inspectorate. **13.—**(1) The Minister shall appoint a Chief Inspector and such and so many Inspectors as the Minister considers appropriate and the Chief Inspector and Inspectors collectively shall be known and are referred to in this Act as the “Inspectorate”.

(2) The Minister shall include amongst those he or she appoints as Inspectors under *subsection (1)* persons who hold qualifications as psychologists or who have other expertise, including expertise in the education of students with special educational needs.

(3) The functions of an Inspector shall be:

(a) to support and advise recognised schools, centres for education and teachers on matters relating to the provision of education and, without prejudice to the generality of the foregoing, an Inspector—

(i) shall visit recognised schools and centres for education on the initiative of the Inspectorate, and, following consultation with the board, patron, parents of students and teachers, as appropriate, do any or all of the following:

(I) evaluate the organisation and operation of those schools and centres and the quality and effectiveness of the education provided in those schools or centres, including the quality of teaching and effectiveness of individual teachers;

(II) evaluate the education standards in such schools or centres;

- (III) assess the implementation and effectiveness of any programmes of education which have been devised in respect of individual students who have a disability or other special educational needs;
 - (IV) assess the implementation of regulations made by the Minister, and
 - (V) report to the Minister, or to the board, patron, parents of students and teachers, as appropriate, and as prescribed, on these matters or on any other matter relating to the activities of those schools or centres and the needs of students attending those schools or centres,
- (ii) F20[...]
- (iii) shall advise teachers and boards in respect of the performance of their duties, and, in particular, assist teachers in employing improved methods of teaching and conducting classes, and
 - (iv) shall advise parents and parents' associations;
- (b) to evaluate the quality and effectiveness of the provision of education in the State, including comparison with relevant international practice and standards, and to report thereon to the Minister;
- (c) to conduct research into education and to provide support in the formulation of policy by the Minister;
- (d) to promote excellence in the management of, teaching in and the use of support services by schools and in the procedures for consultation and co-operation within and between schools and centres for education;
- (e) to disseminate information relating to—
- (i) the performance by the Inspectorate of the functions provided for in this section, and
 - (ii) successful educational initiatives which have been implemented by schools and centres for education,
- and promote informed debate on those matters;
- (f) to evaluate the effectiveness of the teaching, development, promotion and use of Irish in schools and centres for education and to report to the Minister on those matters;
- (g) to advise the Minister on any matter relating to education policy and provision, including the curriculum taught in recognised schools, assessment and teaching methods, and
- (h) F20[...]
- (4) F21[...]
- (5) Where an Inspector has carried out an evaluation or an assessment under *subsection (3)(a)(i)*, he or she may make recommendations to the Minister in respect of improvements that he or she considers appropriate.
- (6) The Minister may, if a teacher and the board consent, second that teacher to the Inspectorate for such period as the Minister shall determine, to carry out any or all of the functions conferred on an Inspector.
- (7) An Inspector shall have all such powers as are necessary or expedient for the purpose of performing his or her functions and shall be accorded every reasonable facility and co-operation by the board and the staff of a school or centre for education.

(8) An Inspector, including the Chief Inspector, shall carry out his or her functions in accordance with such procedures for, and criteria of, inspections as may be determined by the Minister from time to time, following consultation with patrons, school management organisations, recognised trade unions and staff associations representing teachers and such other persons as the Minister considers appropriate, and such directions as may be given by the Minister from time to time.

(9) A teacher or the board of a school may request the Chief Inspector to review any inspection carried out by an Inspector which affects the teacher or the school and the Chief Inspector shall review the inspection in accordance with such procedures as the Chief Inspector shall determine.

(10) A person who immediately before the commencement of this Part holds an office as Chief Inspector, Inspector or Inspector of Guidance Service/Psychologist or who is seconded to the Inspectorate shall on the commencement of this Part continue to hold that office or be so seconded as appropriate and this section shall apply to any such person.

(11) The F22[Public Service Management (Recruitment and Appointments) Act 2004], and the Civil Service Regulation Acts, 1956 to 1996, shall apply to Inspectors.

(12) The Minister shall appoint Inspectors or second teachers to the Inspectorate, in accordance with this section, with the concurrence of the Minister for Finance.

F23[(12A) A person who obstructs or interferes with an inspector in the course of exercising a power conferred on the inspector by this section or impedes the exercise by the inspector of such a power commits an offence and is liable—

(a) on summary conviction to a Class A fine, or

(b) on conviction on indictment, to a fine not exceeding €100,000.]

F24[(13) The Chief Inspector, with the consent of the Minister, may delegate the performance of one or more of his or her functions to an Inspector nominated by the Chief Inspector and functions so delegated to such an Inspector shall be performable by him or her accordingly.

(14) The Minister may appoint an Inspector to perform the functions of the Chief Inspector during any period in which the Chief Inspector is temporarily unable to perform his or her functions, whether because of absence, ill-health or for any other reason, and, for the duration of that period, the functions of the Chief Inspector shall be performable by the Inspector so appointed accordingly.]

Annotations

Amendments:

- F20** Deleted (13.06.2014) by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 3(a), S.I. No. 274 of 2014.
- F21** Deleted (13.06.2014) by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 3(b), S.I. No. 274 of 2014.
- F22** Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61 and sch. 2 part 1, commenced on enactment.
- F23** Inserted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 66, S.I. No. 211 of 2013.
- F24** Inserted (13.06.2014) by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 3(c), S.I. No. 274 of 2014.

Editorial Notes:

- E8** Duty to publish reports made pursuant to subs. (3)(a)(i) prescribed (21.04.2015) by *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2015* (S.I. No. 153 of 2015), reg. 2(1), subject to para. (2).
- E9** Previous affecting provision: duty to publish reports made pursuant to subs. (3)(a)(i) prescribed (6.02.2006) by *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2006* (S.I. No. 49 of 2006), reg. 2(1), in effect as per reg. 2(2); revoked (21.04.2015) by *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2015* (S.I. No. 153 of 2015), reg. 4.

PART IV

BOARDS OF MANAGEMENT

Establishment
and membership
of boards of
management.

14.—(1) It shall be the duty of a patron, for the purposes of ensuring that a recognised school is managed in a spirit of partnership, to appoint where practicable a board of management the composition of which is agreed between patrons of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister.

(2) A board established in accordance with *subsection (1)* shall fulfil in respect of the school the functions assigned to that school by this Act, and, except in the case of a school established or maintained by F25[an education and training board], each board shall be a body corporate with perpetual succession and power to sue and may be sued in its corporate name.

(3) Pending the establishment of a board as provided for by *subsection (1)* the persons who have responsibilities under the structures and systems in place in a school for the management of that school at the commencement of this Part, including boards of governors, shall, as appropriate, discharge the functions of a board under this Act.

(4) The members of a board shall, except where articles of management otherwise provide, be appointed by the patron of the school.

(5) When making appointments to a board established in accordance with *subsection (1)* the patron shall comply with directions given by the Minister in respect of an appropriate gender balance and the Minister, before giving any such directions, shall consult with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers.

(6) The Minister, with the agreement of the patron, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall prescribe matters relating to the appointment of a board.

(7) Except as provided by this Act, no action shall lie against a member of a board in respect of anything done by that member in good faith and in pursuance of this Act or any regulations made by the Minister under this Act.

(8) Where a patron determines that the appointment of a board in accordance with *subsection (1)* is not practicable, the patron shall inform the parents of students, the teachers and other staff of the school and the Minister of that fact and the reasons therefor at the time of such determination and, thereafter, if a board is not so appointed, the patron shall, from time to time or as requested by the Minister, inform the parents, teachers and other staff and the Minister of the reasons therefor.

Annotations**Amendments:**

- F25** Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 27, S.I. No. 211 of 2013.

Functions of a board.

15.—(1) It shall be the duty of a board to manage the school on behalf of the patron and for the benefit of the students and their parents and to provide or cause to be provided an appropriate education for each student at the school for which that board has responsibility.

(2) A board shall perform the functions conferred on it and on a school by this Act and in carrying out its functions the board shall—

- (a) do so in accordance with the policies determined by the Minister from time to time,
- (b) uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school, and at all times act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school,
- (c) consult with and keep the patron informed of decisions and proposals of the board,
- (d) publish, in such manner as the board with the agreement of the patron considers appropriate, the policy of the school concerning admission to and participation in the school, including the policy of the school relating to the expulsion and suspension of students and admission to and participation by students with disabilities or who have other special educational needs, and ensure that as regards that policy principles of equality and the right of parents to send their children to a school of the parents' choice are respected and such directions as may be made from time to time by the Minister, having regard to the characteristic spirit of the school and the constitutional rights of all persons concerned, are complied with,
- (e) have regard to the principles and requirements of a democratic society and have respect and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society,
- (f) have regard to the efficient use of resources (and, in particular, the efficient use of grants provided under *section 12*), the public interest in the affairs of the school and accountability to students, their parents, the patron, staff and the community served by the school, and
- (g) use the resources provided to the school from monies provided by the Oireachtas to make reasonable provision and accommodation for students with a disability or other special educational needs, including, where necessary, alteration of buildings and provision of appropriate equipment.

(3) For the avoidance of doubt, nothing in this Act shall confer or be deemed to confer on the board any right over or interest in the land and buildings of the school for which that board is responsible.

Annotations**Amendments:**

- F26** Substituted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 5(a), not commenced as of date of revision.
- F27** Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 5(b), not commenced as of date of revision.

Modifications (not altering text):

- C7** Prospective affecting provision: subs. (2)(d) amended by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 5, not commenced as of date of revision.
- (d) F26[subject to this Act, publish the admission policy of the school], and ensure that as regards that policy principles of F27[inclusion,] equality and the right of parents to send their children to a school of the parents' choice are respected and such directions as may be made from time to time by the Minister, having regard to the characteristic spirit of the school and the constitutional rights of all persons concerned, are complied with,

Dissolution by a patron.

16.—(1) Subject to this section and to the consent of the Minister, the patron may—

- (a) for good and valid reasons stated in writing to a member of a board of management remove that member from that office, or
- (b) if satisfied that the functions of a board are not being effectively discharged, dissolve that board.

(2) Where a patron proposes to remove a member of a board from that office or to dissolve a board, the patron shall inform that member or board by notice in writing of his or her intention and the reasons therefor.

(3) If, at the end of a period of one month after the date of the notice provided for in *subsection (2)*, the patron, having considered any representations made to him or her by or on behalf of the member or the board, remains of the view that the member should be removed from office or that the board should be dissolved then the patron may, subject to the approval of the Minister, by notice in writing and stating the opinion of the patron and the reasons therefor, remove the member from office or dissolve the board as appropriate.

(4) A copy of every notice issued under this section and any representations made to the patron shall be delivered to the Minister as soon as may be after it has been made.

(5) Whenever the patron dissolves a board, the patron may, subject to the approval of the Minister, appoint any person or body of persons as the patron thinks fit to perform the functions of the board.

(6) Where a patron removes a member of a board the resulting vacancy shall be filled in accordance with regulations made under *section 14 (6)*.

(7) The patron shall provide, in accordance with *section 14*, for the re-establishment of a board dissolved under *subsection (1)* not later than six months following the dissolution or such longer period as the patron, with the consent of the Minister, considers appropriate and when the new board has been established the functions of the dissolved board shall be re-vested in the new board and shall cease to be functions of the person or body of persons, if any, appointed under *subsection (5)*.

Dissolution by patron at request of Minister.

17.—(1) Where—

- (a) the Minister is satisfied that the functions of a board are not being effectively discharged, or
- (b) a board willfully neglects to comply with any order, direction or regulation of the Minister given or made under this Act, or
- (c) a board fails to comply with any judgment or order of any court of competent jurisdiction,

the Minister may, by notice in writing, require the patron to dissolve the board for reasons stated in such notice and the patron shall dissolve the board accordingly as soon as may be after the date of such notice.

(2) Before the Minister serves a notice as provided for in *subsection (1)*, he or she shall inform the board and the patron of his or her intention to do so and shall consider any representations made to him or her by or on behalf of the board or the patron within one month of informing the board and the patron.

(3) Whenever the patron dissolves a board under this section, *subsections (5) and (7) of section 16* shall apply.

Keeping of accounts and records.

18.—(1) Except in the case of a school established or maintained by F28[an education and training board], a board shall keep all proper and usual accounts and records of all monies received by it or expenditure of such monies incurred by it and shall ensure that in each year all such accounts are properly audited or certified in accordance with best accounting practice.

(2) Accounts kept in pursuance of this section shall be made available by the school concerned for inspection by the Minister and by parents of students in the school, in so far as those accounts relate to monies provided in accordance with *section 12*.

Annotations

Amendments:

- F28** Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 27, S.I. No. 211 of 2013.

Report on operation of board.

19.—(1) Where the Minister or the patron is of the opinion that the functions of a board are not being effectively discharged, the Minister or the patron, as the case may be, shall inform the board of that opinion and the reasons therefor.

(2) Having considered any representations by the board, the Minister or the patron, as the case may be, may authorise any person or persons as the Minister or the patron may deem appropriate to report to the Minister or the patron or both the Minister and the patron on any matter arising from or relating to the operation of that board.

(3) Any person appointed to prepare a report under this section shall be entitled at all reasonable times to enter any premises occupied by the school concerned and shall be afforded every facility and co-operation by the board, the teachers and other staff of the school, including access to all records, to perform his or her functions.

(4) A Principal or board shall supply the patron and the Minister with such information regarding the performance of the board's functions as the patron or the Minister, as the case may be, may from time to time require.

(5) Where either the Minister or a patron proposes to exercise functions under this section then—

(a) the Minister shall inform the patron, or

(b) the patron shall inform the Minister,

as appropriate, of the proposed course of action.

Report and information.

20.—A board shall establish procedures for informing the parents of students in the school of matters relating to the operation and performance of the school and such procedures may include the publication and circulation to parents, teachers and other staff and a student council where one has been established of a report on the operation and performance of the school in any school year, with particular reference to the achievement of objectives as set out in the school plan provided for under *section 21*.

The school plan.

21.—(1) A board shall, as soon as may be after its appointment, make arrangements for the preparation of a plan (in this section referred to as the “school plan”) and shall ensure that the plan is regularly reviewed and updated.

(2) The school plan shall state the objectives of the school relating to equality of access to and participation in the school and the measures which the school proposes to take to achieve those objectives including equality of access to and participation in the school by students with disabilities or who have other special educational needs.

(3) The school plan shall be prepared in accordance with such directions, including directions relating to consultation with the parents, the patron, staff and students of the school, as may be given from time to time by the Minister in relation to school plans.

(4) A board shall make arrangements for the circulation of copies of the school plan to the patron, parents, teachers and other staff of the school.

Annotations

Editorial Notes:

E10 Additional information (statement of strategy) in relation to plans prepared under section prescribed (5.07.2002) by *Education (Welfare) Act 2000* (22/2000), s. 22(8), commenced as per s. 1(3).

PART V

THE PRINCIPAL AND TEACHERS

Functions of Principal and teachers.

22.—(1) The Principal of a recognised school and the teachers in a recognised school, under the direction of the Principal, shall have responsibility, in accordance with this Act, for the instruction provided to students in the school and shall contribute, generally, to the education and personal development of students in that school.

(2) Without prejudice to *subsection (1)*, the Principal and teachers shall—

(a) encourage and foster learning in students,

(b) regularly evaluate students and periodically report the results of the evaluation to the students and their parents,

(c) collectively promote co-operation between the school and the community which it serves, and

(d) subject to the terms of any applicable collective agreement and their contract of employment, carry out those duties that—

(i) in the case of teachers, are assigned to them by or at the direction of the Principal, and

(ii) in the case of the Principal, are assigned to him or her by the board.

F29 [The Principal.

23.— (1) In addition to the functions conferred on a Principal by *section 22*, the Principal of a recognised school shall—

(a) be responsible for the day-to-day management of the school, including guidance and direction of the teachers and other staff of the school, and be accountable to the board of the school for that management,

(b) provide leadership to the teachers and other staff and the students of the school,

(c) be responsible, together with the board, parents of students and the teachers, for the creation in the school of an environment which is supportive of learning among the students and which promotes the professional development of the teachers,

(d) under the direction of the board, and in consultation with the teachers, the parents and, to the extent appropriate to their age and experience, the students, set objectives for the school and monitor the achievement of those objectives, and

(e) encourage the involvement of parents of students in the school in the education of those students and in the achievement of the objectives of the school.

(2) For the purpose of carrying out his or her functions under this Act, a Principal of a recognised school shall have all such powers as are necessary or expedient in that regard, and shall carry out his or her functions in accordance with—

(a) such policies as may be determined from time to time by the board of the school, and

(b) regulations made under section 33.

(3) The Principal of a recognised school shall be entitled to be a member of any and every committee appointed by the board of the school.

(4) Wherever practicable, the Principal of a recognised school shall, in exercising his or her functions under this section, consult with teachers and other staff of the school.

(5) Where the employer of the Principal, teachers and other staff of a recognised school is a person other than the board of the school concerned, a reference in this section to a board shall be construed and have effect as if the said person were substituted for the said reference wherever it occurs.]

Annotations

Amendments:

F29 Substituted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 6, S.I. No. 190 of 2012.

F30 Substituted by *Education (Admission to Schools) Act 2018* (14/2018), s. 6, not commenced as of date of revision.

Modifications (not altering text):

C8 Prospective affecting provision: subss. (1)(a) and (2)(b) substituted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 6, not commenced as of date of revision.

F30[(a) be responsible for the day to day management of the school, including guidance and direction of the teachers and other staff of the school and the implementation of the admission policy of the school, and be accountable to the board of the school for that management,]

...

F30[(b) regulations made under this Act.]

F31[Provisions relating to staff.

24.— (1) Subject to this section, the board of a recognised school—

(a) shall, if not already appointed, appoint a person to be Principal of the school, and

(b) may appoint such and so many persons as teachers and other staff of the school as the board from time to time considers necessary for the performance of its powers and functions under this Act.

(2) The numbers and qualifications of the teachers and other staff of a recognised school, who are, or who are to be, remunerated out of monies provided by the Oireachtas, shall be determined from time to time by the Minister, with the concurrence of the Minister for Public Expenditure and Reform.

(3) The terms and conditions of employment of the teachers and other staff of a recognised school, appointed by the board and who are, or who are to be, remunerated out of monies provided by the Oireachtas, shall be determined from time to time by the Minister, with the concurrence of the Minister for Public Expenditure and Reform.

(4) The Principal, a teacher or other member of staff of a recognised school appointed prior to, and holding office immediately before, the commencement of this section, continues in office after such commencement as if appointed under this section.

(5) (a) Notwithstanding *subsections (3) and (11)*, a teacher or other member of staff of a recognised school who is, or who is to be, remunerated out of monies provided by the Oireachtas may be redeployed to another recognised school in accordance with redeployment procedures determined from time to time by the Minister with the concurrence of the Minister for Public Expenditure and Reform following consultation with bodies representative of patrons, recognised school management organisations and with recognised trade unions and staff associations representing teachers or other staff as appropriate.

(b) A teacher or other member of staff redeployed in accordance with *paragraph (a)* shall, in accordance with the redeployment procedures determined under that paragraph, become an employee of—

(i) the board of, or

(ii) the F32[education and training board] which maintains,

the recognised school to which he or she is redeployed.

(6) Where all or part of the remuneration or superannuation, or both, of the Principal, a teacher or another member of staff of a recognised school is paid or is to be paid out of monies provided by the Oireachtas, such remuneration and superannuation shall be determined from time to time by the Minister, with the concurrence of the Minister for Public Expenditure and Reform.

(7) For the purposes of section 30 of the Act of 2001—

(a) the Teaching Council shall provide the Minister and each F32[education and training board] with information which is held by it in respect of each person who is or was a registered teacher, and

(b) on and after commencement of that section, the Teaching Council shall, at the request of the Minister or F32[an education and training board, provide the Minister or education and training board], as appropriate, with the registration details of any person—

(i) who is or becomes registered under section 31 of the Act of 2001 or under regulations made pursuant to that section,

F33[(ia) whose registration is renewed under section 33 (amended by section 14 of the Teaching Council (Amendment) Act 2015) of the Act of 2001,]

(ii) whose conditional registration lapses in accordance with section 32 of the Act of 2001,

(iii) who is removed from the register in accordance with F34[sections 32, 34, 35 or 45 (amended by the Teaching Council (Amendment) Act 2015)] of the F34[Act of 2001,]

(iv) whose registration is corrected in accordance with section 36 of the F35[Act of 2001, or]

F36[(v) who stands removed or suspended from the register under Part 5 of the Act of 2001.]

F37[(8) Notwithstanding section 30 of the Act of 2001, the Minister, where he or she is satisfied that it is necessary to facilitate the urgent, temporary or occasional staffing needs of recognised schools, may from time to time prescribe both—

(a) the circumstances in which a person, who is not a registered teacher for a reason other than that he or she is suspended or removed from the register under Part 5 of the Act of 2001, may be employed in the place of a registered teacher in a recognised school and be remunerated, in respect of such employment, out of monies provided by the Oireachtas, and

(b) the conditions attaching to the employment of such a person where he or she is, or is to be, remunerated out of monies provided by the Oireachtas.

(9) Notwithstanding section 30 of the Act of 2001, the Minister shall consider the following in satisfying himself or herself for the purposes of *subsection (8)*:

(a) the desirability of ensuring that persons employed in teaching positions in a recognised school are registered teachers;

(b) the need to facilitate the urgent, temporary or occasional staffing needs of schools;

(c) the desirability of minimising disruption to the education of students; and

(d) the qualifications and relevant experience of a person referred to in *paragraphs (a) and (b) of subsection (8)*.

(10) Without prejudice to the generality of subsection (8), regulations made under that subsection may provide for one or more than one of the following:

(a) a requirement that a person referred to in *paragraphs (a) and (b) of subsection (8)* be employed in the place of a registered teacher in a recognised school in a position remunerated, or to be remunerated, out of monies provided by the Oireachtas if, and only if, no registered teacher is available to take up the position in question;

- (b) a limit on the length for which such a person may be so employed in place of a registered teacher;
- (c) a requirement that such a person has certain minimum qualifications before he or she can be so employed;
- (d) a requirement that the Minister consent to the employment of such a person;
- (e) a limit on the subjects or purposes, or both, for which such a person may be so employed;
- (f) a requirement that a school retain and furnish to the Minister evidence that it has been unable to employ a registered teacher in the place of a registered teacher in a recognised school; and
- (g) a requirement that such a person is subject to An Garda Síochána vetting and clearance in accordance with standard practice for registered teachers.]

F38[(11) The board of a recognised school may, in accordance with procedures determined from time to time by the Minister following consultation with bodies representative of patrons, recognised school management organisations and with recognised trade unions and staff associations representing teachers or other staff as appropriate, appoint, suspend or dismiss any or all of the Principal, teachers and other staff of a school, who are remunerated or who are to be remunerated out of monies provided by the Oireachtas.

(12) Where the employer of the Principal, teachers and other staff of a recognised school is a person other than the board of the school concerned, a reference in this section to a board shall be construed and have effect as if the said person were substituted for the said reference wherever it occurs.

(13) **F39**[...]

(14) In this section—

(a) ‘Act of 2001’ means the Teaching Council Act 2001;

‘register’ means the Register of Teachers established under section 29 of the Teaching Council Act 2001 and ‘registration’ and ‘registered’ shall be construed accordingly;

and

(b) a reference to a person being, or to be, paid or remunerated out of monies provided by the Oireachtas includes a person being partly so paid or remunerated.]

Annotations

Amendments:

F31 Substituted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 6, S.I. No. 190 of 2012.

F32 Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 27, S.I. No. 211 of 2013.

F33 Inserted (8.11.2016) by *Teaching Council (Amendment) Act 2015* (31/2015), s. 32(a), S.I. No. 556 of 2016.

F34 Substituted (25.07.2016) by *Teaching Council (Amendment) Act 2015* (31/2015), s. 32(b), S.I. No. 408 of 2016.

- F35** Substituted (25.07.2016) by *Teaching Council (Amendment) Act 2015* (31/2015), s. 32(c), S.I. No. 408 of 2016.
- F36** Inserted (25.07.2016) by *Teaching Council (Amendment) Act 2015* (31/2015), s. 32(d), S.I. No. 408 of 2016.
- F37** Substituted and inserted (27.01.2014) by *Education (Amendment) Act 2012* (14/2012), s. 6, S.I. No. 418 of 2013.
- F38** Inserted (6.06.2012) by *Education (Amendment) Act 2012* (14/2012), s. 6, S.I. No. 190 of 2012.
- F39** Rpealed (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 65, S.I. No. 211 of 2013.
- Editorial Notes:**
- E11** Power pursuant to section exercised (28.01.2014) by *Education Act 1998 (Unregistered Persons) Regulations 2014* (S.I. No. 32 of 2014), in effect as per reg. 2.

PART VI

MISCELLANEOUS

School year,
week, day.

25.—The Minister may, from time to time, following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, prescribe—

- (a) the minimum number of days in a school year during which a school shall be open to receive students and provide them with instruction,
- (b) the minimum number of hours of instruction in a school day or in a school week, and
- (c) any matters related to the length of the school year, the school week or the school day and the organisation and structure of such year, week or day.

Parents' associa-
tion.

26.—(1) The parents of students of a recognised school may establish, and maintain from among their number, a parents' association for that school and membership of that association shall be open to all parents of students of that school.

(2) A parents' association shall promote the interests of the students in a school in co-operation with the board, Principal, teachers and students of a school and for that purpose may—

- (a) advise the Principal or the board on any matter relating to the school and the principal or board, as the case may be, shall have regard to any such advice, and
- (b) adopt a programme of activities which will promote the involvement of parents, in consultation with the Principal, in the operation of the school.

(3) The board shall promote contact between the school, parents of students in that school and the community and shall facilitate and give all reasonable assistance to parents who wish to establish a parents' association and to a parents' association when it is established.

(4) (a) A parents' association shall, following consultation with its members, make rules governing its meetings and the business and conduct of its affairs.

- (b) Where a parents' association is affiliated to a national association of parents, the rules referred to in *paragraph (a)* shall be in accordance with guidelines issued by that national association of parents with the concurrence of the Minister.

Information to students and student council.

27.—(1) A board shall establish and maintain procedures for the purposes of informing students in a school of the activities of the school.

(2) The procedures established and maintained under *subsection (1)* shall facilitate the involvement of the students in the operation of the school, having regard to the age and experience of the students, in association with their parents and teachers.

(3) Students of a post-primary school may establish a student council and, without prejudice to the generality of *subsection (1)*, a board of a post-primary school shall encourage the establishment by students of a student council and shall facilitate and give all reasonable assistance to—

(a) students who wish to establish a student council, and

(b) student councils when they have been established.

(4) A student council shall promote the interests of the school and the involvement of students in the affairs of the school, in co-operation with the board, parents and teachers.

(5) The rules for the establishment of a student council shall be drawn up by the board, in accordance with such guidelines as may be issued by the Minister from time to time, and such rules may provide for the election of members and the dissolution of a student council.

(6) A student council, following consultation with the board, may make rules governing its meetings and the business and conduct of its affairs.

Grievance and other procedures.

28.—(1) The Minister, following consultation with patrons of recognised schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, may from time to time prescribe procedures in accordance with which—

(a) the parent of a student or, in the case of a student who has reached the age of 18 years, the student, may appeal to the board against a decision of a teacher or other member of staff of a school,

(b) grievances of students, or their parents, relating to the students' school (other than those which may be dealt with under *paragraph (a)* F40[...], shall be heard, and

(c) appropriate remedial action shall, where necessary, be taken as a consequence of an appeal or in response to a grievance.

(2) In prescribing procedures for the purposes of this section the Minister shall have regard to the desirability of determining appeals and resolving grievances in the school concerned.

Annotations

Amendments:

F40 Deleted (2.06.2004) by *Vocational Education (Amendment) Act 2001 (23/2001)*, s. 36(a), S.I. No. 918 of 2004.

Appeals to Secretary General.

29.—(1) Where a board or a person acting on behalf of the board—

- (a) permanently excludes a student from a school, or
- (b) suspends a student from attendance at a school for a period to be prescribed for the purpose of this paragraph, or
- (c) refuses to enroll a student in a school, or
- (d) makes a decision of a class which the Minister, following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers, may from time to time determine may be appealed in accordance with this section,

the parent of the student, or in the case of a student who has reached the age of 18 years, the student, may, within a reasonable time from the date that the parent or student was informed of the decision and following the conclusion of any appeal procedures provided by the school or the patron, in accordance with *section 28*, appeal that decision to the Secretary General of the Department of Education and Science and that appeal shall be heard by a committee appointed under *subsection (2)*.

(2) For the purposes of the hearing and determination of an appeal under this section, the Minister shall appoint one or more than one committee (in this section referred to as an “appeals committee”) each of which shall include in its membership an Inspector and such other persons as the Minister considers appropriate.

(3) Where a committee is appointed under *subsection (2)* the Minister shall appoint one of its number to be the chairperson of that committee and who, in the case of an equal division of votes, shall have a second or casting vote.

(4) In hearing and determining an appeal under this section an appeals committee shall act in accordance with such procedures as may be determined from time to time by the Minister following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers and such procedures shall ensure that—

- (a) the parties to the appeal are assisted to reach agreement on the matters the subject of the appeal where the appeals committee is of the opinion that reaching such agreement is practicable in the circumstances,
- (b) hearings are conducted with the minimum of formality consistent with giving all parties a fair hearing, and
- (c) appeals are dealt with within a period of 30 days from the date of the receipt of the appeal by the Secretary General, except where, on the application in writing of the appeals committee stating the reasons for a delay in determining the appeal, the Secretary General consents in writing to extend the period by not more than 14 days.

F41[(4A) The National Educational Welfare Board may, at the hearing of an appeal brought by a parent or student against a decision to which paragraph (a) or (c) of *subsection (1)* applies, make such submissions (whether in writing or orally) to the appeals committee, as it considers appropriate.]

(5) On the determination of an appeal made under this section, the appeals committee shall send notice in writing of its determination of the appeal and the reasons for that determination to the Secretary General.

(6) Where—

- (a) an appeals committee upholds a complaint in whole or in part, and

(b) it appears to the appeals committee that any matter which was the subject of the complaint (so far as upheld) should be remedied,

the appeals committee shall make recommendations to the Secretary General as to the action to be taken.

(7) As soon as practicable after the receipt by the Secretary General of the notice referred to in *subsection (5)*, the Secretary General—

(a) shall, by notice in writing, inform the person who made the appeal and the board of the determination of the appeals committee and the reasons therefor, and

(b) in a case to which *subsection (6)* applies, may in such notice give such directions to the board as appear to the Secretary General (having regard to any recommendations made by the appeals committee) to be expedient for the purpose of remedying the matter which was the subject of the appeal and the board shall act in accordance with such directions.

(8) The Minister, in consultation with patrons of schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall from time to time review the operation of this section and *section 28* and the first such review shall take place not more than two years from the commencement of this section.

(9) In the case of a school which is established or maintained by F42[an education and training board] an appeal against a decision of the board of such school shall lie, in the first instance, to F42[the education and training board] and thereafter to the Secretary General in accordance with *subsection (1)*.

(10) The Minister shall, from time to time, following consultation with F42[education and training boards], national associations of parents and recognised trade unions and staff associations representing teachers, prescribe—

(a) the procedures for appeals under this section to F42[education and training boards], and

(b) which appeals shall inquire into whether the procedure adopted by a board in reaching a decision or conducting an appeal was fair and reasonable and which appeals shall be by way of a full re-hearing.

(11) The Secretary General may, in accordance with sections 4 (1) (i) and 9 of the Public Service Management Act, 1997, assign the responsibility for the performance of the functions for which the Secretary General is responsible under this section to another officer of the Department of Education and Science.

(12) For the purposes of *subsection (1)(c)*, “student” means a person who applies for enrolment at a school and that person or his or her parents may appeal against a refusal to enroll him or her in the same manner as a student or his or her parents may appeal a decision under this section.

Annotations

Amendments:

F41 Inserted (5.07.2002) by *Education (Welfare) Act 2000* (22/2000), s. 26(2), commenced as per s. 1(3).

F42 Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72(1) and sch. 6 item 27, S.I. No. 211 of 2013.

F43 Substituted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(1), not commenced as of date of revision, subject to transitional provision in subs. (3).

- F44** Substituted by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 4(a)(i), not commenced as of date of revision.
- F45** Inserted by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 4(a)(ii), not commenced as of date of revision.
- F46** Substituted and inserted by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 4(b), not commenced as of date of revision.
- F47** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 93 and sch. 2 part 11 item 3, S.I. No. 502 of 2013.
- F48** Inserted by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 4(c), not commenced as of date of revision.
- F49** Inserted by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 4(d), not commenced as of date of revision.

Modifications (not altering text):

- C9** Prospective affecting provision: section substituted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(1), not commenced as of date of revision, subject to transitional provision in subs. (3).

F43[Appeals

29. (1) Where a board or a person acting on behalf of a board—

- (a) permanently excludes a student from a school,
- (b) suspends a student from attendance at a school for a period or periods totalling not less than 20 school days in a school year, or
- (c) refuses to admit a student to a school, where the decision to refuse admission is due to—
 - (i) the school being oversubscribed, or
 - (ii) a reason other than the school being oversubscribed,

the parent of the student, or in the case of a student who has reached the age of 18 years, the student (each of whom is, in this section and *sections 29A to 29F*, referred to as an applicant), may, within such period as may be determined in procedures under *section 29B*, and following the conclusion of any review under *section 29C* or any appeal procedures provided by the school in

accordance with this Act, appeal a decision in accordance with this section and *sections 29A to 29F*.

(2) In this section and *sections 29A to 29F*—

‘Act of 2018’ means the Education (Admission to Schools) Act 2018;

‘annual admission notice’ has the same meaning as it has in Part X (inserted by section 9 of the Act of 2018);

‘applicant’ has the meaning assigned to it by subsection (1);

‘board’ includes a committee established under section 44(1) or 44(7) of the Education and Training Boards Act 2013;

‘oversubscribed’ has the same meaning as it has in Part X (inserted by section 9 of the Act of 2018);

‘school’ has the same meaning as it has in Part X (inserted by section 9 of the Act of 2018);

‘school year’ has the same meaning as it has in Part X (inserted by section 9 of the Act of 2018);

‘special class’ has the same meaning as it has in Part X (inserted by section 9 of the Act of 2018);

‘special educational needs’ has the same meaning as it has in the Education for Persons with Special Educational Needs Act 2004;

‘student’ includes a person in relation to whom an application for admission to a school has been made and that person or his or her parents may appeal against a decision to refuse to admit him or her in the same manner as a student or his or her parents may appeal a decision under this section.]

C10 Prospective affecting provision: section amended by *Education (Miscellaneous Provisions) Act 2007 (9/2007)*, s. 4, not commenced as of date of revision. Not that s. 4 is prospectively repealed by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 12(d), not commenced as of date of revision.

29.—(1) Where a board or a person acting on behalf of the board— ...

F44[(c) refuses to enrol—

(i) a student in a school, or

(ii) a student to receive instruction on the curriculum through Irish in a school, if that school provides for the teaching of subjects on the curriculum through Irish for some or all of its students, or]

...

the parent of the student, or in the case of a student who has reached the age of 18 years, the student, may, within a reasonable time from the date that the parent or student was informed of the decision and following the conclusion of any appeal procedures provided by the school or the patron, in accordance with *section 28*, appeal that decision to the Secretary General of the Department of Education and Science and F45[, *subject to subsection (4D)*,] that appeal shall be heard by a committee appointed under *subsection (2)*.

...

F46[(4) In hearing and determining an appeal under this section against a decision to which *subsection (1)(a) or (b)* applies an appeals committee shall have regard to—

(a) the nature, scale and persistence of any behaviour alleged to have given rise to, or contributed to, the decision made by or on behalf of the board,

(b) the reasonableness of any efforts made by the school to enable the student to whom the appeal relates (the ‘student concerned’) to participate in and benefit from education,

(c) the educational interests of the student concerned and the desirability of enabling the student as far as practicable to participate in and benefit from education with his or her peers,

(d) the educational interests of, and the effective provision of education for, other students of the school and the maintenance of a classroom and school environment which is

supportive of learning among the students of the school and ensures continuity of instruction provided to students in any classroom concerned and the school,

- (e) the safety, health and welfare of teachers, students and staff of the school,
- (f) the code of behaviour under section 23 of the Act of 2000 and other relevant policies of the school and—
 - (i) in the case of that code of behaviour, the extent to which it is in compliance with that section 23 and any guidelines issued under subsection (3) of that section, and
 - (ii) in the case of those other policies, the extent to which each of them is implemented, promotes equality of access to and participation in education and is in compliance with—
 - (I) any enactment that imposes duties on schools or their boards,
 - (II) any relevant guidelines or policies of the Minister,
- (g) the duties on schools or their boards imposed by or under any enactment,
- (h) guidelines issued pursuant to section 22(7) of the Act of 2000, and
- (i) such other matters as the appeals committee considers relevant.

(4A) Nothing in *subsection (4)* affects the obligation of an appeals committee to uphold a complaint in relation to the permanent exclusion of a student from a school if the parent of the student or the student, as the case may be, shows that subsection (1) or (4) of section 24 of the Act of 2000 has not been complied with in relation to that exclusion.

(4B) In hearing and determining an appeal under this section an appeals committee shall act in accordance with such procedures as may be determined from time to time by the Minister following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers, and such other persons as the Minister considers appropriate, and such procedures shall—

- (a) provide that the Secretary General may require one or more of the parties to the appeal to furnish to the committee, within a period specified in the requirement, such information as the Secretary General specifies in the requirement,
- (b) provide that the Secretary General may stipulate, as a condition for the committee proceeding to hear and determine the appeal, that a requirement made of a parent or student by the Secretary General in accordance with procedures under paragraph (a) has been complied with, and
- (c) ensure that—
 - (i) the parties to the appeal are assisted to reach agreement on the matters the subject of the appeal where the committee is of the opinion that reaching such agreement is practicable in the circumstances,
 - (ii) hearings are conducted with the minimum of formality consistent with giving all parties a fair hearing,
 - (iii) the appeal is determined within a period of 30 days (the ‘relevant period’) from—
 - (I) save where *clause (II)* applies, the date of the receipt of the appeal by the Secretary General, or
 - (II) if a requirement, in accordance with procedures under *paragraph (a)*, is made of any of the parties to the appeal, the date on which the period specified in the requirement for furnishing the information concerned expires,

unless the Secretary General extends the relevant period (which the Secretary General has, by virtue of this subparagraph, power to do) where he or she is of opinion that an extension is necessary in all the circumstances of the case (but the period of that extension may not exceed 14 days).

(4C) An appeals committee may draw such inferences as it considers appropriate from any failure of a party to an appeal to comply with a requirement made of the party in accordance with procedures under *subsection (4B)(a)*.

(4D) An appeals committee may refuse to hear, or continue to hear, an appeal under this section if—

(a) it is of opinion that the appeal is vexatious, frivolous, an abuse of process or without substance or foundation, or

(b) it is satisfied, having regard to the grounds of appeal and any attempts to facilitate agreement between the parties or any subsequent steps taken by the parties, that in the particular circumstances the appeal should not be considered further.

(4E) At the hearing of an appeal against a decision to which *subsection (1)* applies, the F47[Child and Family Agency] and the National Council for Special Education may each make such submissions, if any (whether in writing or orally), as it considers appropriate to the appeals committee.]

...

(7) As soon as practicable after the receipt by the Secretary General of the notice referred to in *subsection (5)*, the Secretary General— ...

(b) in a case to which *subsection (6)* applies, may in such notice give such directions to the board as appear to the Secretary General (having regard to any recommendations made by the appeals committee) to be expedient for the purpose of remedying the matter which was the subject of the appeal and the board shall F48[within such period (if any) as may be specified by the Secretary General in that notice,] act in accordance with such directions.

...

F49[(13) Notwithstanding *subparagraph (iii)* of *subsection (4B)(c)*, the Minister may provide by regulations that no appeal under this section shall be heard during a specified period in any year, being a period in that year in which schools are closed; any period that is specified in such regulations for the time being in force shall not be reckoned in calculating the period referred to in that *subparagraph (iii)* that is applicable to the appeal concerned.

(14) If, in the circumstances of the particular matter, an issue relating to the refusal of a particular school to enrol a student or the exclusion by a particular school of a student from it would (if this subsection had not been enacted) be capable of—

(a) being the subject of an appeal under this section, and

(b) being, in substance, contested in an appeal under section 10 of the Education for Persons with Special Educational Needs Act 2004,

then, in those circumstances, an appeal may be made by a person under one or other of those sections (being whichever of them the person proposing to appeal opts for) but not both of those sections.

(15) For the purposes of the application of *subsection (14)*, but only for those purposes, a student and his or her parents shall be treated as the one person; for the purposes of that subsection and this subsection, *subsection (12)* applies in relation to the construction of ‘student’.]

C11 References in subs. (1) to “parent of the student” and “student” construed (5.07.2002) by *Education (Welfare) Act 2000* (22/2000), s. 26(1), commenced as per s. 1(3). Subsection amended by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 6(a)(i), not commenced as of date of revision. Note that s. 6 is prospectively repealed by *Education (Admission to Schools) Act 2018* (14/2018), s. 12(d), not commenced as of date of revision.

Right of Board to appeal etc. decision of board of management under section 29 of Act of 1998.

26.—(1) The Board may appeal a decision to which paragraph (a) or (c) of subsection (1) of section 29 of the Act of 1998 applies and accordingly a reference in the said subsection (1) to “parent of the student” or “student” shall be construed as including a reference to the Board.

...

Editorial Notes:

- E12** Duties of Educational Welfare Board in relation to child, in respect of whom certain decisions are upheld under section, prescribed (5.07.2002) by *Education (Welfare) Act 2000* (22/2000), s. 27, commenced as per s. 1(3). Section amended by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 6(b), not commenced as of date of revision. Not that s. 6 is prospectively repealed by *Education (Admission to Schools) Act 2018* (14/2018), s. 12(d), not commenced as of date of revision.

F50[Establishment of appeals panels and appeals committees

29A. ...]

Annotations**Amendments:**

- F50** Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

Modifications (not altering text):

- C12** Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

F50[**29A.** (1) The Minister shall, from time to time, establish one or more panels of suitable persons (in this section referred to as an 'appeals panel') to consider appeals under *section 29*.

(2) A member of an appeals panel—

(a) shall be appointed to the panel for such period as the Minister may determine,

(b) shall be paid such fees and expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, may from time to time determine,

(c) may at any time be removed from the panel by the Minister for stated reasons, and

(d) shall be independent and impartial in carrying out his or her functions.

(3) Where the Minister receives a notice of appeal under *section 29*, he or she shall establish a committee of 3 members of an appeals panel to consider the appeal concerned (in this section and *sections 29B to 29F* referred to as an 'appeals committee').

(4) The Minister shall nominate one member of an appeals committee to be the chairperson of the committee for the purposes of the appeal concerned and, in the case of an equal division of votes, the chairperson shall have a second or casting vote.

(5) The Minister may, where he or she considers it necessary to do so—

(a) prior to an oral hearing in respect of an appeal under *section 29(1)(a), (b) or (c)(ii)*, or

(b) prior to the examination and determination of an appeal under *section 29(1)(c)(i)*,

replace a member of an appeals committee (including the chairperson) with another member of an appeals panel.

(6) The Minister may furnish such support of an administrative nature to an appeals committee as the Minister considers necessary to enable the appeals committee to perform its functions.

(7) An appeals committee shall act in accordance with procedures determined under *section 29B*.]

F51[Procedures
in relation to
appeals

29B. ...]

Annotations

Amendments:

- F51** Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

Modifications (not altering text):

- C13** Section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

F51[29B. (1) The Minister may, from time to time, having regard to the principles of inclusion, equality of access to and participation in education, efficiency, effectiveness, clarity and fairness for applicants and schools and following consultation with bodies representative of patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, determine procedures for the purpose of *sections 29 to 29F* and such procedures may provide for all or any of the following:

- (a) the period within which an appeals committee shall determine an appeal and, in that regard, the Minister may—
 - (i) determine different periods during which an appeal under *paragraph (a), (b) or (c)(ii) of section 29(1)* shall be heard and determined, and an appeal under *section 29(1)(c)(i)* shall be determined, and
 - (ii) determine periods during the year which shall not be included for the purposes of the calculation of a period under *subparagraph (i)*;
- (b) the manner by which an appeals committee shall determine an appeal, including in the case of an appeal under *section 29(1)(a), (b) or (c)(ii)*, procedures regarding the holding of an oral hearing and the examination by the appeals committee of parties to the appeal;
- (c) the form and manner in which the Child and Family Agency and the National Council for Special Education may make submissions at an oral hearing in an appeal under *section 29(1)(a), (b) or (c)(ii)*;
- (d) the form and manner in which an appeal shall be brought, including the period during which an appeal shall be brought;
- (e) in the case of an appeal under *section 29(1)(a), (b) or (c)(ii)*—
 - (i) the fixing and notification of the date, time and location of an oral hearing, and
 - (ii) the circumstances in which an adjournment of an oral hearing may be granted;
- (f) that an appeals committee may by notice in writing require an applicant, board, or other relevant person or body to furnish to the committee the information specified in the notice within the period specified in that notice;
- (g) the period during which and manner by which an appeals committee shall notify the Minister of its decision and the reasons for its decision;
- (h) information which shall be submitted to an appeals committee by an applicant when making an appeal under *section 29(1)(c)(i) or (ii)* which shall include—
 - (i) a copy of the application for admission,
 - (ii) a copy of the decision to refuse admission,
 - (iii) where a request has been made under *section 29C*, a copy of that request and a copy of any statement received from the board under *subsection (5) of that section*, and
 - (iv) the grounds of the appeal;

- (i) information which shall be submitted by a board to an appeals committee where an appeal has been made under *section 29(1)(c)(i)* or (ii) which shall include the school's admission policy and the school's annual admission notice;
- (j) the form and manner in which a request for a review under *section 29C(1)* shall be made, including the period during which such request shall be made and the period in which the board shall issue a statement under *section 29C(5)*;
- (k) the manner in which, and period during which, a review under *section 29F(5)* shall be undertaken;
- (l) such other consequential or ancillary matters as the Minister considers appropriate.
- (2) An appeals committee, an applicant and a board shall comply with procedures determined by the Minister under this section.]

F52[Review by board of decision to refuse admission

29C. ...]

Annotations

Amendments:

- F52** Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

Modifications (not altering text):

- C14** Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

F52[**29C.** (1) Subject to *subsection (2)* and prior to making an appeal under *section 29(1)(c)*, an applicant—

- (a) shall, in the case of an appeal under *section 29(1)(c)(i)*, and
 (b) may, in the case of an appeal under *section 29(1)(c)(ii)*,

within such period as may be determined by the Minister, request in writing a review by the board of the decision to refuse admission.

(2) A request under *subsection (1)* shall—

- (a) be based on the implementation of the school's admission policy and the content of its annual admission notice, and
 (b) set out the grounds of the request.

(3) Where, following a request under *subsection (1)*—

- (a) the request for a review has not been made within the period determined by the Minister, or
 (b) where the request results from the refusal to admit a student to the school because the school was oversubscribed and—
 (i) the applicant is relying on information that was not made available in the application for admission, or
 (ii) the board considers that the grounds relied upon in the application for review did not have a material effect on the outcome of the application for admission,

the board shall notify the applicant that it is not in a position to review the decision to refuse admission and the reasons therefor.

(4) Subject to *subsection (3)*, a board shall, following a request under *subsection (1)*, within such period as may be determined by the Minister, review the decision to refuse admission having regard to the grounds set out in the request for review.

(5) Following a review under *subsection (4)* the board shall issue the applicant with—

(a) a statement confirming that there was no failure or error in making the decision to refuse admission, or

(b) a statement confirming—

(i) that a failure or error occurred in making the decision to refuse admission, and

(ii) whether or not such failure or error had a material effect on the outcome of the application.

(6) Where a board issues a statement under *subsection (5)(b)* and the failure or error concerned had a material effect on the outcome of the application for admission, the board shall rectify that failure or error—

(a) where the failure or error related to the admission of a student to a school or special class, by admitting the student to the school or special class concerned, or

(b) where the failure or error related to a student's ranking on the waiting list, by adjusting the ranking of the student on the waiting list.

(7) In this section and *section 29E* 'waiting list' means, in relation to a school, the waiting list compiled in accordance with *section 62(7)(i)* by the school concerned.]

F53[Appeals under *section 29(1)(a), (b)* and *(c)(ii)*

29D. ...]

Annotations

Amendments:

F53 Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

Modifications (not altering text):

C15 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3)

F53[29D. (1) An appeals committee shall, in accordance with procedures determined by the Minister under *section 29B*, hold an oral hearing for the purposes of an appeal under *section 29(1)(a), (b)* or *(c)(ii)*.

(2) For the purposes of an appeal under *section 29(1)(a), (b)* or *(c)(ii)*—

(a) oral hearings shall be conducted with the minimum of formality consistent with giving all parties a fair hearing, and

(b) an appeals committee may, where it is of the opinion that reaching agreement on the matters the subject of the appeal is practicable in the circumstances, provide such assistance to the parties to reach agreement as the committee considers appropriate.

(3) For the purposes of an oral hearing under this section—

(a) the Child and Family Agency, or

(b) in the case of a child with special educational needs, the National Council for Special Education,

may make such submissions, if any, to an appeals committee as it or they consider or considers appropriate.

(4) In hearing and determining an appeal under *section 29* against a decision to which *subsection (1)(a)* or *(b)* of that section relates, an appeals committee shall have regard to—

- (a) the nature, scale and persistence of any behaviour alleged to have given rise to, or contributed to, the decision made by or on behalf of the board and whether or not such behaviour is confined to specific classes in the school concerned,
- (b) the merit of any explanation offered by the student in relation to his or her behaviour,
- (c) the reasonableness of any efforts made by the school to enable the student to participate in and benefit from education and whether or not all reasonable efforts have been fully exhausted and any response by the student to any efforts made by the school to enable the student to participate in and benefit from education,
- (d) the educational interests of the student concerned and the desirability of enabling him or her to participate in and benefit from education with his or her peers,
- (e) the educational interests of, and the effective provision of education for, other students of the school and the maintenance of a classroom and school environment which is supportive of learning amongst all students in the school and ensures continuity of instruction provided to students,
- (f) any evidence that the behaviour of the student has impacted on the safety, health and welfare of teachers, staff or other students of the school,
- (g) the school's code of behaviour under section 23 of the Act of 2000 and other relevant policies of the school, and
 - (i) in the case of the code of behaviour, whether it complies with section 23 of the Act of 2000 and any guidelines issued under subsection (3) of that section, and
 - (ii) in the case of any other relevant policies, the extent to which each of them is implemented and is in compliance with—
 - (I) any enactment that imposes duties on schools or their boards,
 - (II) any relevant guidelines or policies of the Minister,
- (h) the duties on schools or their boards imposed by or under any enactment,
- (i) any guidelines issued by the Child and Family Agency under section 22(7) of the Act of 2000,
- (j) any submissions made by the National Council for Special Education or the Child and Family Agency, and
- (k) such other matters as the appeals committee considers relevant.

(5) Nothing in *subsection (4)* affects the obligation of an appeals committee to allow an appeal under *section 29(1)(a)* if the parent of the student or the student, as the case may be, shows that subsection (1) or (4) of section 24 of the Act of 2000 has not been complied with in relation to that exclusion.

(6) Following an oral hearing under this section an appeals committee shall—

- (a) come to its conclusion having examined and considered the evidence and materials made available to it, and
- (b) make a preliminary decision in relation to the appeal.

(7) An appeals committee shall, by notice in writing, notify the Minister, the applicant, the board and, where the Child and Family Agency or the National Council for Special Education made submissions at the oral hearing, the Agency or the Council of its preliminary decision under *subsection (6)*, the reasons for its preliminary decision and, where it proposes to allow an appeal, its proposed direction to the board.

(8) An applicant, the board, and where the Child and Family Agency or the National Council for Special Education made submissions at the oral hearing in accordance with procedures under *section 29B*, the Agency or the Council may, make observations to the appeals committee in relation to its preliminary decision and any proposed direction.

(9) An appeals committee shall, having considered any observations made under *subsection (8)*, make its final decision.

(10) Subject to *subsection (9)*, an appeals committee shall, in its final decision—

(a) allow the appeal, or

(b) disallow the appeal.

(11) An appeals committee, in its final decision, shall—

(a) where it allows an appeal under *section 29(1)(a)*, include a direction to the board to readmit the student and remove the expulsion from the record of the student,

(b) where it allows an appeal under *section 29(1)(b)*, include a direction to the board to readmit the student and remove the suspension from the record of the student, and

(c) where it allows an appeal under *section 29(1)(c)(ii)*, include a direction to the board to admit the student.

(12) An appeals committee shall, by notice in writing, inform the Minister of its final decision and the reasons for its final decision and, where it allows an appeal, shall forward to the Minister a copy of the direction included in its final decision.

(13) The Minister shall, as soon as practicable after he or she receives a notice under *subsection (12)*, forward to the applicant, the board and, where the Child and Family Agency or the National Council for Special Education made submissions at the oral hearing, the Agency or the Council—

(a) a copy of the final decision of the appeals committee and the reasons for its decision, and

(b) where the appeals committee has allowed an appeal, a copy of the direction included in the final decision of the appeals committee.

(14) A board shall comply with a direction under *subsection (11)*.

(15) In this section, ‘Act of 2000’ means the Education (Welfare) Act 2000.]

F54[Appeals under *section 29(1)(c)(i)*

29E. ...]

Annotations

Amendments:

F54 Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 7, not commenced as of date of revision, subject to transitional provision in subs. (3).

Modifications (not altering text):

C16 Section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 7, not commenced as of date of revision, subject to transitional provision in subs. (3).

F54[**29E.** (1) An appeals committee shall, in accordance with procedures determined by the Minister under *section 29B*, examine and determine an appeal under *section 29(1)(c)(i)* without an oral hearing and, when doing so, shall rely on the same evidence and materials as were available to and relied upon when the decision to refuse admission was made.

(2) Following the determination of an appeal under *section 29(1)(c)(i)*, an appeals committee shall make a decision to—

(a) allow the appeal, or

(b) disallow the appeal.

(3) Where an appeals committee allows an appeal under *section 29(1)(c)(i)* its decision shall include a direction to the board to—

(a) admit the student, or

- (b) adjust the ranking of the student on the waiting list.
- (4) An appeals committee shall—
- (a) by notice in writing, inform the Minister of a decision under *subsection (2)*, and the reasons for the decision, and
- (b) where it allows an appeal, forward to the Minister a copy of the direction issued under *subsection (3)*.
- (5) The Minister shall, as soon as practicable after he or she receives a notice under *subsection (4)* forward to the applicant and the board—
- (a) a copy of the decision of the appeals committee under *subsection (2)* and the reasons for its decision, and
- (b) where the appeals committee has allowed an appeal, a copy of the direction of the appeals committee under *subsection (3)*.
- (6) A board shall comply with a direction under *subsection (3)*.]

F55[Miscellaneous provisions in relation to appeals under *section 29*

29F....]

Annotations

Amendments:

F55 Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

Modifications (not altering text):

C17 Section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 7(2), not commenced as of date of revision, subject to transitional provision in subs. (3).

F55[**29F.** (1) An appeals committee shall refuse to hear or determine, or refuse to continue to hear or determine, an appeal under *section 29* where—

- (a) it is of the opinion that the appeal is vexatious, frivolous, an abuse of process or without substance or foundation,
- (b) in relation to an appeal under *section 29(1)(a)*, (b) or (c)(ii) it is satisfied, having regard to the grounds of the appeal and any attempts to facilitate agreement between the parties and any subsequent steps taken by the parties that, in the particular circumstances, the appeal should not be considered or further considered,
- (c) an appeal has not been made within the period specified in procedures under *section 29B*,
- (d) an applicant has failed to provide information requested in accordance with procedures under *section 29B*,
- (e) in relation to an appeal under *section 29(1)(c)(i)* or (ii), the grounds for an appeal relate to section 3, 7 or 7A of the Equal Status Act 2000, or
- (f) in relation to an appeal under *section 29(1)(c)(i)*—
- (i) an appeals committee is of the opinion that the grounds relied upon by the applicant did not have a material effect on the outcome of the application for admission,
- (ii) an appeal is based on information that was not made available in the application for admission, or
- (iii) the applicant did not request a review by the board of the decision to refuse admission.

(2) An appeals committee shall, by notice in writing, inform the Minister where it decides in accordance with *subsection (1)* to refuse to hear or determine, or to refuse to continue to hear or determine, an appeal under *section 29*.

(3) A notice under *subsection (2)* shall include the committee's reasons for refusing to hear or determine, or refusing to continue to hear or determine, the appeal concerned.

(4) The Minister shall, as soon as practicable after he or she receives a notice under *subsection (2)*, forward the applicant and the board a copy of the decision of the appeals committee and the reasons for its decision.

(5) An applicant may, after receiving a copy of a decision under *subsection (4)*, request the Minister to review the decision.

(6) Where the Minister receives a request under *subsection (5)* he or she shall, as soon as practicable and subject to *subsection (7)*, appoint a member of an appeals panel established under *section 29A* to review the decision.

(7) A person appointed under *subsection (6)* shall not have been a member of the appeals committee that made the decision in relation to the request concerned.

(8) A person appointed under *subsection (6)* shall review the decision in accordance with procedures under *section 29B* and, following the review shall make a recommendation to the Minister—

(a) that the decision of the appeals committee is upheld, or

(b) that the decision of the appeals committee is set aside.

(9) Where the Minister receives a recommendation under *subsection (8)(b)*, he or she shall set aside the decision and direct the appeals committee to proceed to hear or determine, or continue to hear and determine, the appeal concerned.

(10) Subject to *subsection (1)*, where an issue relating to a decision to refuse a student admission to a school or permanently exclude a student from a school would be capable of being the subject of—

(a) an appeal under *section 29*, and

(b) a designation under *section 67* (inserted by section 9 of the Act of 2018),

then an appeal under *section 29* and a designation under *section 67* may not, in respect of the same student, be made at the same time.

(11) Where an appeal under *section 29* has been unsuccessful in respect of a student, nothing in *subsection (10)* shall preclude a designation being made under *section 67* in respect of the same student.

(12) An appeals committee may draw such inferences as it considers appropriate as a result of any failure of a party to an appeal to provide any information required or requested in accordance with procedures under *section 29B*.]

Curriculum.

30.—(1) The Minister may, from time to time, following such consultation with patrons of schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, as the Minister considers appropriate, prescribe the curriculum for recognised schools, namely—

(a) the subjects to be offered in recognised schools,

(b) the syllabus of each subject,

(c) the amount of instruction time to be allotted to each subject, and

(d) the guidance and counselling provision to be offered in schools.

(2) Without prejudice to the generality of *subsection (1)*, the Minister—

- (a) shall have regard to the desirability of assisting schools to exercise their powers as provided for under *subsection (4)*,
- (b) shall have regard to the characteristic spirit of a school or class of school in exercising his or her functions under this section,
- (c) may give directions to schools, where he or she considers it appropriate, to ensure that the subjects and syllabuses pursued in those schools are appropriate and relevant to the educational and vocational needs of the students in those schools,
- (d) shall ensure that the amount of instruction time to be allotted to subjects on the curriculum as determined by the Minister in each school day shall be such as to allow for such reasonable instruction time, as the board with the consent of the patron determines, for subjects relating to or arising from the characteristic spirit of the school, and
- (e) shall not require any student to attend instruction in any subject which is contrary to the conscience of the parent of the student or in the case of a student who has reached the age of 18 years, the student.

(3) The Minister may—

- (a) consult with the National Council for Curriculum and Assessment and such other persons or bodies of persons as the Minister considers appropriate on any matter relating to the curriculum for recognised schools, and
- (b) establish, as the Minister considers appropriate, such bodies of persons to conduct research and to advise him or her on matters relating to his or her duties under this section.

(4) A school may, subject to the requirement that the curriculum as determined by the Minister is taught in that school, provide courses of instruction in such other subjects as the board considers appropriate.

Teaching through Irish.

31.—(1) The Minister shall establish a body of persons—

- (a) (i) to plan and co-ordinate the provision of textbooks and aids to learning and teaching through Irish,
- (ii) to advise the Minister on policies relating to the provision and promotion of education through the medium of Irish in recognised schools generally and in schools located in a Gaeltacht area,
- (iii) to provide support services to those schools through the medium of Irish, and
- (iv) to conduct research into any or all matters to which this paragraph applies, and
- (b) to plan and co-ordinate the provision of textbooks and aids to the learning and teaching of Irish and to conduct research into and to advise the Minister on strategies which have as their objective the enhancement of the effectiveness in the teaching of Irish in recognised schools and centres for education.

(2) The Minister may by order, made with the consent of the Minister for Finance, delegate any of his or her functions in respect of the matters referred to in *subsection (1)* to the body established in accordance with that subsection which shall carry out those functions under the direction and control of the Minister.

(3) The body established in accordance with *subsection (1)*—

(a) shall, with the consent of the Minister, establish a committee to assist it in the performance of the functions conferred on it under *subsection (1)(b)*, and

(b) may, with the consent of the Minister, at any time dissolve a committee appointed under this subsection or remove a member of a committee from such membership.

(4) The body established in accordance with *subsection (1)* shall, from time to time, as it considers appropriate, advise the National Council for Curriculum and Assessment on matters relating to—

(a) the teaching of Irish,

(b) the provision of education through the medium of Irish, including matters relating to the curriculum for primary and post-primary schools which provide education through the medium of Irish and assessment procedures employed in those schools, and

(c) the educational needs of people living in a Gaeltacht area,

and the National Council for Curriculum and Assessment shall have regard to any such advice in the exercise by it of its functions.

(5) The Minister may by order amend or revoke any order made under this section, including an order made under this subsection.

(6) In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to the body appointed in accordance with *subsection (1)* a grant or grants for the purposes of expenditure by that body in the performance of its functions.

(7) The Minister may provide such secretarial and administrative support to a body established under this section as the Minister considers necessary.

Educational disadvantage.

32.—F56[...]

Annotations

Amendments:

F56 Repealed (6.06.2012) by *Education (Amendment) Act 2012 (14/2012)*, s. 7, S.I. No. 190 of 2012.

Editorial Notes:

E13 Previous affecting provision: functions transferred and reference in subs. (7) to “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3 and 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

Regulations.

33.—The Minister, following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, may make regulations for the purpose of giving effect to this Act and, without prejudice to the generality of the foregoing, the Minister may make regulations relating to all or any of the following matters:

(a) the recognition of schools and the withdrawal of recognition from schools;

(b) the making of grants by the Minister to schools and centres for education;

- (c) the appointment and qualifications of persons who are to be employed as teachers in schools or centres for education;
- (d) the inspection of schools;
- (e) the building, maintenance and equipment of schools;
- (f) the length of the school year, school week and school day;
- (g) admission of students to schools;
- (h) access to schools by school attendance officers and other persons;
- (i) access to schools and centres for education by students with disabilities or who have other special educational needs, including matters relating to reasonable accommodation and technical aid and equipment for such students;
- (j) procedures for the promotion of effective liaison and co-operation by schools and centres for education with—
 - (i) other schools and centres for education,
 - (ii) local authorities (within the meaning of the Local Government Act, 1941),
 - F57[(iii) the Health Service Executive F58[and the Child and Family Agency], and]
 - (iv) voluntary and other bodies which have a special interest in education, in particular, education of students with special educational needs;
- (k) appeals, and
- (l) the curriculum of schools.

Annotations

Amendments:

- F57** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 7 part 8 item 4, S.I. No. 887 of 2004.
- F58** Inserted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 11 item 4, S.I. No. 502 of 2013.
- F59** Repealed by *Education (Admission to Schools) Act 2018* (14/2018), s. 12(a), not commenced as of date of revision.

Modifications (not altering text):

- C18** Prospective affecting provision: para. (g) repealed by *Education (Admission to Schools) Act 2018* (14/2018), s. 12(a), not commenced as of date of revision.
- (g) F59[...]

Editorial Notes:

- E14** Power pursuant to section exercised (21.04.2015) by *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2015* (S.I. No. 153 of 2015).
- E15** Previous affecting provision: power pursuant to section exercised (30.01.2006) by *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2006* (S.I. No. 49 of 2006); revoked (21.04.2015) by *Education Act 1998 (Publication of Inspection Reports on Schools and Centres for Education) Regulations 2015* (S.I. No. 153 of 2015), reg. 4.

Financial year. **34.**—In this Act “financial year” means such period of 12 months as may be prescribed by the Minister.

Amendment of Intermediate Education (Ireland) Act, 1878. **35.**—(1) Section 5 of the Intermediate Education (Ireland) Act, 1878, is hereby amended in subsection (4) by the deletion of “; provided that no examination shall be held in any subject of religious instruction, nor any payment made in respect thereof”.

(2) Without prejudice to the application of the Intermediate Education (Ireland) Act, 1878, to both male and female students, section 6 of that Act is hereby amended by the repeal of subsection (4).

Amendment of Vocational Education Act, 1930.

36.—The Vocational Education Act, 1930, is hereby amended—

(a) in section 105(1) by the substitution of “a person” for “an officer of the Minister”, and

(b) in sections 106 and 107 by the substitution of “a person” for “an officer” wherever it occurs.

Education support centres.

37.—(1) In this section “education support centre” means a place in which services are provided for schools, teachers, parents, boards and other relevant persons which support them in carrying out their functions in respect of the provision of education which is recognised for that purpose by the Minister in accordance with *subsection (2)*.

(2) The Minister may recognise a place as an education support centre and where the Minister so recognises a place he or she shall cause the name and address of that centre to be entered in a register maintained by the Minister and available for inspection by members of the public during normal working hours.

(3) An education support centre shall have a management committee, to manage the business and staff of that centre.

(4) A committee established in accordance with *subsection (3)* shall be a body corporate with perpetual succession and with power to sue and may be sued in its corporate name and no action shall lie against a member of a board in respect of anything done by that member in good faith and in pursuance of their functions as such members.

(5) The Minister may withdraw recognition from an education support centre.

(6) The Minister may, from time to time, make regulations relating to all or any of the following matters:

(a) procedures for the appointment of management committees;

(b) the appointment and remuneration of staff;

(c) the making of grants to education support centres;

(d) the provision of information to the Minister on any matter relating to the operation of education support centres;

(e) access to an education support centre and to the financial and other records of that education support centre by persons appointed by the Minister, and

(f) such other matters relating to the operation of such centres as the Minister considers appropriate.

Annotations**Editorial Notes:**

- E16** Power pursuant to subs. (6) exercised (19.07.2018) by *Education Support Centres (Appointment and Secondment of Directors) (Amendment) Regulations 2018* (S.I. No. 281 of 2018).
- E17** Power pursuant to subs. (6) exercised (1.09.2017) by *Education Support Centres (Appointment and Secondment of Directors) Regulations 2017* (S.I. No. 394 of 2017), in effect as per reg. 1(2).

F60[Additional provision in respect of children with special educational needs

37A. ...]**Annotations****Amendments:**

- F60** Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 8, not commenced as of date of revision.

Modifications (not altering text):

- C19** Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 8, not commenced as of date of revision.

F60**37A.** (1) Where the Council is of the opinion that there is insufficient capacity in an area in relation to the provision of education for children with special educational needs, the Council shall inform the Minister by notice in writing of its opinion and the reasons for its opinion and shall specify the type of provision in respect of which there is insufficient capacity.

(2) Where, following consultation with the Minister and having regard to any information provided to the Council by the Minister in relation to any planned additional provision of education for children with special educational needs and available land and buildings, the Council remains of the opinion that there is insufficient capacity in an area for the provision of education to children with special educational needs, it shall prepare and submit a report on the matter to the Minister.

(3) A report under *subsection (2)* shall specify—

- (a) the existing provision of education for children with special educational needs in the area concerned, having regard to the generality of provision of education within the area,
- (b) any proposed or existing building projects which may affect capacity to provide education for children with special educational needs in the area concerned,
- (c) any schools in the area concerned which the Council considers could meet additional demand for education for children with special educational needs,
- (d) which (if any) of the schools referred to in *paragraph (c)* the Council considers should be requested to make additional provision in respect of children with special educational needs, and
- (e) such other matters as the Council considers appropriate.

(4) Prior to preparing a report under *subsection (2)*, the Council shall consult with the Minister, bodies representative of patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers.

(5) (a) Where, on receipt of a report submitted under *subsection (2)*, the Minister is of the opinion that a relevant person in respect of a school referred to in the report should

make additional provision for children with special educational needs, he or she shall serve a notice in writing on the relevant person.

(b) A notice under *paragraph (a)* shall—

(i) set out the Minister's opinion that the relevant person named in the report should make additional provision in respect of children with special educational needs and state the reasons for his or her opinion,

(ii) include a copy of the report submitted under *subsection (2)*, and

(iii) confirm that the relevant person may make representations to the Minister in respect of the notice not later than 14 days from the service of the notice.

(c) On receipt of any representations made under *paragraph (b)(iii)*, the Minister may consult the relevant person.

(6) Where—

(a) on consideration of a report submitted to the Minister under *subsection (2)*,

(b) after consideration of any representations made under *paragraph (b)(iii) of subsection (5)*, and

(c) following any consultation with the relevant person under *paragraph (c) of subsection (5)*,

the Minister remains of the opinion that the relevant person should make additional provision in respect of children with special educational needs, the Minister shall serve a notice in writing on the relevant person.

(7) A notice under *subsection (6)* shall—

(a) set out the Minister's opinion that the relevant person should make additional provision in respect of children with special educational needs and state the reasons for his or her opinion,

(b) specify details of the measures to be taken by the relevant person,

(c) specify what, if any, resources the Minister considers appropriate to provide to the school in order to assist the school in increasing its provision of education for children with special educational needs, and

(d) set out any proposed property arrangements, including any arrangements in relation to the provision of additional accommodation on the school premises and the funding arrangements the Minister shall provide for that purpose, in order to assist the school in increasing its provision of education for children with special educational needs.

(8) On receipt of a notice under *subsection (6)* the patron or any other person or body in relation to whom the ownership of the school premises is vested may, in respect of the matters referred to in *subsection (7)(d)*, not later than 14 days from the service of the notice, make representations to the Minister.

(9) Where, following any representations under *subsection (8)*, and such further consultation as the Minister considers appropriate, the Minister and the patron or any other person or body in relation to whom the ownership of the school premises is vested fail to agree arrangements in relation to the matters referred to in *subsection (7)(d)*, the Minister may refer the matter to arbitration and, subject to section 29 of the Arbitration Act 2010, that Act shall apply to an arbitration under this section.

(10) On receipt of a notice under *subsection (6)* a board of management may, in respect of the matters referred to in *paragraph (a), (b) or (c) of subsection (7)*, not later than 14 days from the service of the notice, make representations to the Minister.

(11) Where, after consideration of any representations made under *subsections (8) and (10)* and, where the Minister has referred the matter to arbitration under *subsection (9)*, following the conclusion of the arbitration process, the Minister remains of the opinion that a school should make additional provision in respect of children with special educational needs, he or she shall by notice in writing request the board of management to agree to increasing such provision and such notice shall specify—

(a) the measures the Minister considers the board of management shall take in relation to increasing such provision,

(b) the resources the Minister shall make available to the school, in order to assist the school in increasing such provision, and

(c) any other matter the Minister considers appropriate.

(12) (a) The board of management shall, not later than 14 days from the service of a notice under *subsection (11)*, by notice in writing to the Minister—

(i) agree to increasing its provision for children with special educational needs in accordance with the terms of the notice under *subsection (11)*, or

(ii) refuse to increase such provision.

(b) Where a board of management fails by notice in writing to agree to increasing its provision for children with special educational needs in accordance with the terms of a notice under *subsection (11)*, within 14 days from the service of a notice under that subsection, the board of management shall, for the purposes of this section, be regarded as having refused to increase such provision.

(13) Where, pursuant to *subsection (12)*, a board of management refuses to increase its provision for children with special educational needs, and the Minister remains of the opinion that the school should make additional provision in respect of children with special educational needs, the Minister shall by notice in writing—

(a) inform the patron of his or her opinion that such school should make such additional provision, and state the reasons for that opinion,

(b) furnish the patron with a copy of the report prepared under *subsection (2)*, and

(c) furnish the patron with a copy of the notice given to the board of management under *subsection (11)* and, where applicable, a copy of the refusal by the board of management provided under *subsection (12)*.

(14) The patron may make representations to the Minister in respect of a notice under *subsection (13)* not later than 14 days from the service of a notice under that subsection.

(15) Where the Minister, after consideration of any representations made under *subsection (14)*, remains of the opinion that a school should make additional provision in respect of children with special educational needs, he or she may inform the patron and the board of management of his or her intention to give a direction under *subsection (17)* and shall serve a copy of a draft of the direction on the patron and the board of management.

(16) The patron and the board of management may, within 14 days from the service of the copy of the draft direction, make representations in writing to the Minister in relation to the draft direction.

(17) Where the Minister, after consideration of any representations made under *subsection (16)*, remains of the opinion that a school should make additional provision in respect of children with special educational needs, the Minister shall serve a direction (in this section referred to as a 'Ministerial direction') on the patron.

(18) A Ministerial direction may include such amendments to the draft direction served under *subsection (15)* as the Minister considers appropriate having regard to any representations made under *subsection (16)* and shall specify that the patron shall, within 10 days, direct the board to comply with the terms of the Ministerial direction, which terms shall include:

(a) the measures to be taken by the board in relation to making additional provision for children with special educational needs,

(b) the period during which such measures shall be taken, and

(c) any other matter the Minister considers appropriate.

(19) The patron and, following a direction by the patron, the board of management shall comply with a Ministerial direction.

(20) (a) The following documents shall be published in accordance with *paragraph (b)*:

(i) any notices issued by the Minister under this section;

(ii) any representations received by the Minister under this section;

(iii) a draft direction served under *subsection (15)*;

(iv) a Ministerial direction.

(b) The Minister shall publish the documents referred to in *paragraph (a)* on the website of the Department of Education and Skills not later than 7 days from the date on which he or she issues or receives them, or, in the case of a draft direction referred to in *paragraph (a)(iii)* or a Ministerial direction, not later than 7 days from the date he or she serves the draft direction or direction concerned.

(21) The Minister shall—

(a) not later than 3 years after section 8 of the Education (Admission to Schools) Act 2018 comes into operation, commence a review of the operation of this section, and

(b) not later than 12 months after the expiration of the said 3 years, make a report to each House of the Oireachtas of his or her findings and conclusions resulting from that review.

(22) In this section—

‘Council’ means the National Council for Special Education;

‘relevant person’, in relation to a school, means the patron, the board of management or any other person or body in relation to whom the ownership of the school premises is vested;

‘resources’ includes resources made available by the Minister and allocated by the Council.]

Editorial Notes:

E18 The section heading is taken from the amending section in the absence of one included in the amendment.

PART VII

NATIONAL COUNCIL FOR CURRICULUM AND ASSESSMENT

Establishment day.

38.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.

Annotations

Editorial Notes:

E19 Power pursuant to section exercised (12.07.2001) by *Education Act, 1998 (National Council for Curriculum and Assessment) (Establishment Day) Order 2001* (S.I. No. 246 of 2001), in effect as per reg. 2.

Establishment of National Council for Curriculum and Assessment.

39.—(1) There shall stand established on the establishment day a body to be known as the National Council for Curriculum and Assessment, or in the Irish language An Chomhairle Náisiúnta Curaclaim agus Measúnachta (in this Act referred to as “the Council”) to perform the functions assigned to it by or under this Act.

(2) The Council 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, with the consent of the Minister, to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of other property.

(3) *Schedule 1* shall apply to the Council.

Composition and appointment.

40.—(1) The composition of the Council shall be determined by order, made by the Minister following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff

associations representing teachers and with such other persons or bodies of persons as the Minister considers appropriate.

(2) In determining the composition of the Council, the Minister shall ensure that, as far as is practicable, the membership of the Council—

(a) is representative of bodies and persons involved in the education system at early childhood and primary and post-primary levels, in particular national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, and

(b) includes other persons who—

(i) have experience or skills, including experience of and skills in business and industry, which in the opinion of the Minister are relevant to the work of the Council and would complement the experience and skills of the persons appointed in accordance with *paragraph (a)*,

(ii) have a special interest in, or experience of, the education of students with a disability or other special educational needs, or

(iii) are representative of Irish language organisations,

as the Minister considers appropriate.

(3) The Minister may, by order, amend or revoke an order made under this section, including an order made under this subsection.

(4) The members of the Council shall be appointed by the Minister in accordance with regulations drawn up by the Minister following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and with such other persons or bodies of persons as the Minister considers appropriate.

Annotations

Editorial Notes:

E20 Power pursuant to section exercised (24.03.2009) by *Education Act 1998 (Composition of National Council for Curriculum and Assessment) Order 2009* (S.I. No. 131 of 2009).

E21 Power pursuant to subs. (4) exercised (6.06.2001) by *Education Act, 1998 (National Council for Curriculum and Assessment) (Appointment of Members) Regulations 2001* (S.I. No. 245 of 2001).

E22 Previous affecting provision: power pursuant to subs. (1) exercised (9.01.2003) by *Education Act 1998 (Composition of National Council for Curriculum and Assessment) Order 2003* (S.I. No. 45 of 2003); revoked (24.03.2009) by *Education Act 1998 (Composition of National Council for Curriculum and Assessment) Order 2009* (S.I. No. 131 of 2009), reg. 3.

E23 Previous affecting provision: power pursuant to subs. (1) exercised (6.06.2001) by *Education Act, 1998 (Composition of National Council for Curriculum and Assessment) Order 2001* (S.I. No. 247 of 2001); revoked (9.01.2003) by *Education Act 1998 (Composition of National Council for Curriculum and Assessment) Order 2003* (S.I. No. 45 of 2003), reg. 3.

Objects and functions.

41.—(1) The object of the Council shall be to advise the Minister on matters relating to—

(a) the curriculum for early childhood education, primary and post-primary schools, and

(b) the assessment procedures employed in schools and examinations on subjects which are part of the curriculum.

(2) Without prejudice to the generality of *subsection (1)*, it shall be a function of the Council:

- (a) from time to time to review the curriculum, or any part of the curriculum, for schools and the syllabuses taught and to advise the Minister;
- (b) to advise the Minister on appropriate methods for the assessment of the effectiveness of the education provided in schools, with particular regard to mechanisms whereby students who have problems achieving their potential may be identified as early as practicable and assisted;
- (c) to advise the Minister on strategies which will assist students to make a successful transition from primary school to post-primary school;
- (d) from time to time to advise the Minister on the standards of knowledge and skills which students at various age-levels should attain and on the mechanisms for assessing the achievement of such standards, having regard to national and international standards and good practice in relation to such assessment;

F61[(*da*) to co-operate with the Qualifications and Quality Assurance Authority of Ireland in respect of the framework of qualifications under the Qualifications and Quality Assurance (Education and Training) Act 2012.]

- (e) from time to time to review the inservice training needs of teachers, including needs arising from the introduction of new curricula, subjects or syllabuses in schools, and to advise the Minister in relation to those needs;
- (f) to advise the Minister on the requirements, as regards curriculum and syllabuses, of students with a disability or other special educational needs;
- (g) to advise the Minister on strategies which have as their objective the enhancement of the effectiveness in the teaching and use of the Irish language in schools;
- (h) to maintain, manage, administer and invest all the money and assets of the Council;
- (i) to promote research and development in education and to conduct or commission such research and development where appropriate to its objects and functions;
- (j) to promote equality of access to education generally and to instruction in any particular subjects between male and female students;
- (k) to accept gifts of money, land or other property upon such trusts and conditions, if any, as may be specified by the donors, provided that nothing in any trust or condition is contrary to this Act, and
- (l) to do all such acts and things as may be necessary to further the objects of the Council, including such functions in relation to review and reform of the curriculum in schools and the assessment of the outcomes of the education provided in schools as the Minister shall from time to time direct.

(3) In carrying out its functions the Council shall—

- (a) have regard to the implications of its advice for the resources, including financial resources, available and shall quantify, as far as practicable, the resources necessary to give effect to any of its proposals,
- (b) have regard to the desirability of achieving equality of access to, participation in and benefit from education,

(c) act in accordance with such directions as may from time to time be given to the Council by the Minister, including directions as to the priority to be accorded to the exercise by it of its different functions, and

(d) have regard to the practicalities of implementation of any advice which it proposes to give to the Minister.

Annotations

Amendments:

F61 Inserted (5.11.2012) by *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012), s. 86 and sch. 3 item 12, S.I. No. 421 of 2012.

Editorial Notes:

E24 Procedure for advising Minister in accordance with subs. (2)(f) prescribed (14.07.2005) by *Education for Persons with Special Educational Needs Act 2004* (30/2004), s. 27, S.I. No. 507 of 2005.

Consultation with designated bodies.

42.—(1) The Minister may, for the purposes of this section, by order designate persons who, or organisations which, have a special interest in the exercise by the Council of its functions and the persons or organisations so designated are hereinafter referred to as “designated bodies”.

(2) The Council shall, from time to time as it considers appropriate, consult with designated bodies and shall consult with such bodies when requested to do so by the Minister.

(3) A designated body may at any time, as it considers appropriate, make representations to the Council on any matter relating to the functions of the Council and the Council shall consider such representations and shall inform the designated body of the outcome of that consideration.

(4) The Council shall give to each designated body a copy of each publication issued by it as soon as may be after it has been issued.

Annotations

Editorial Notes:

E25 Power pursuant to section exercised (3.09.2013) by *Education Act 1998 (Section 42) (Designation of Organisations) Order 2013* (S.I. No. 344 of 2013).

Chief executive officer.

43.—(1) The Minister shall, from time to time, appoint to the Council in a whole-time capacity a chief executive officer who shall carry on, manage and generally control the administration of the Council and shall manage and control the staff of the Council.

(2) The person who, immediately before the day on which the chief executive officer is appointed under *subsection (1)*, holds the office of chief executive officer of the body of persons known as National Council for Curriculum and Assessment, being an unincorporated and non-statutory body of persons appointed by the Minister shall, if he or she so consents, be appointed as the first chief executive officer of the Council.

(3) The chief executive officer shall be employed by the Minister in accordance with such terms and conditions, which may include secondment from another office or

employment, and receive such remuneration as the Minister, with the consent of the Minister for Finance, from time to time determines.

Staff.

44.—(1) The Minister, with the consent of the Minister for Finance, may appoint such and so many persons to assist the Council in the performance of its functions as the Minister considers appropriate.

(2) The persons appointed in accordance with *subsection (1)* shall be employed in accordance with such terms and conditions, which may include secondment from another office or employment, and receive such remuneration as the Minister, with the consent of the Minister for Finance, from time to time determines.

(3) The Minister may provide such administrative and secretarial support to the Council as he or she considers necessary.

(4) The F62[**Public Service Management (Recruitment and Appointments) Act 2004**], and the Civil Service Regulation Acts, 1956 to 1996, shall apply to full-time, permanent employees of the Council.

Annotations

Amendments:

F62 Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

Grants.

45.—In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to the Council a grant or grants for the purposes of expenditure by the Council in the performance of its functions.

Accounts and information.

46.—(1) The Council shall keep, in such form as may be approved of by the Minister, with the concurrence of the Minister for Finance, all proper and usual accounts and records of all monies received or expenditure incurred by it and, in particular, shall keep in such form as aforesaid such special accounts and records as the Minister may, with the concurrence of the Minister for Finance, from time to time direct.

(2) Accounts kept in pursuance of this section shall be submitted annually by the Council to the Comptroller and Auditor General for audit on a date not later than the thirtieth day of April in the year following the year to which the accounts relate, or on such other date as the Minister may from time to time determine, and, immediately after the audit, a copy of the accounts and of such other accounts, if any, as the Minister has directed to be kept, together with a copy of the report of the Comptroller and Auditor General on the accounts shall be presented by the Council to the Minister.

(3) The Minister shall cause copies of the accounts presented to him or her under this section by the Council, together with copies of the report of the Comptroller and Auditor General thereon, to be laid before each House of the Oireachtas.

(4) The Council shall provide the Minister with such information regarding the performance of its functions as the Minister may from time to time require.

Committees.

47.—The Council may—

(a) establish committees, consisting either wholly or partly of persons who are members of the Council, to assist it in the performance of its functions,

(b) delegate to a committee appointed under this section any of its functions that may be better or more conveniently performed by a committee, and

(c) at any time dissolve a committee appointed under this section or remove a member of a committee from such membership.

Annual Report. **48.**—As soon as may be after the end of each year, the Council shall prepare and submit to the Minister, in such form as may be determined by the Minister, a report on the performance of the Council in that year.

PART VIII

EXAMINATIONS

Interpretation. **49.**—In this Part—

“candidate” means a person who, in accordance with procedures determined from time to time by the Minister, is registered to present himself or herself for an examination;

“examiner” means a person who is employed by the Minister for the purpose of—

(a) the preparation of examination papers or other examination materials,

(b) the marking of such papers or other such materials, or

(c) the carrying out of any other functions in respect of the conduct of examinations;

“examination” means an examination relating to post-primary, adult and vocational education and vocational training as may from time to time be conducted in accordance with procedures determined by the Minister or by a body of persons established by the Minister and to which this Part applies in accordance with *section 50*;

“examination paper” includes any paper, plan, map, drawing, diagram, pictorial or graphic work or other document and any photograph, film or recording (whether of sound or images or both)—

(a) in which questions are set for answer by candidates as part of an examination or which are related to such questions, or

(b) in which projects or practical exercises are set which candidates are required to complete as part of an examination or which are related to such projects or exercises.

Examinations. **50.**—(1) This Part shall apply to the examinations set out in *Schedule 2*.

(2) In addition to the examinations set out in *Schedule 2*, the Minister may from time to time prescribe such other examinations as he or she considers appropriate to which this Part shall apply.

Regulations. **51.**—(1) The Minister may make regulations as he or she from time to time considers appropriate for the effective conduct of examinations and in particular, without prejudice to the generality of the aforesaid, may make regulations relating to—

(a) the preparation of an examination paper and other examination materials,

(b) procedures at places where examinations are conducted, including the supervision of examinations,

- (c) the marking of work presented for examination,
- (d) the issuing of results of examinations,
- (e) the charging and collection of fees for examinations,
- (f) the terms under which candidates may appeal against the results of an examination and the procedure for such appeals,
- (g) the penalties to be imposed on a person who acts in breach of regulations made by the Minister or who otherwise misconducts himself or herself in respect of an examination, and
- (h) the designation of places where examinations may be held.

(2) The Minister may from time to time appoint a person or a body of persons to advise him or her on any matter relating to the examinations or to supervise or review any part of the conduct of the examinations, including appeals by candidates against the results of examinations.

Offences.

52.—(1) A person who—

- (a) knowingly and without lawful authority publishes an examination paper or part of such paper to any other person prior to the holding of the examination concerned,
- (b) has in his or her possession without lawful authority an examination paper or part of such paper prior to the holding of the examination concerned,
- (c) carries out any duties relating to the preparation of examination papers and knowingly and without lawful authority provides a candidate for an examination or any other person with information concerning the material prepared by him or her in the course of those duties with the intention of conferring an advantage upon a candidate over other candidates,
- (d) knowingly and wilfully credits a candidate with higher marks than the marks to which that candidate was entitled with the intention of conferring an advantage on that candidate over other candidates,
- (e) knowingly and maliciously credits a candidate with lower marks than the marks to which that candidate was entitled,
- (f) personates a candidate at an examination or knowingly allows or assists a person to personate a candidate at an examination,
- (g) knowingly and maliciously destroys or damages any material relating to an examination,
- (h) knowingly and maliciously obstructs any candidate or a person engaged in the conduct of an examination or otherwise interferes with the general conduct of an examination,
- (i) knowingly and without lawful authority alters any certificate or any other record, including a record in machine-readable form, containing the results of an examination, or
- (j) knowingly issues or makes use of any certificate or other document which purports to be a document issued by the person or body under whose authority the examination was conducted and to contain the results of an examination knowing that those results are false,

shall be guilty of an offence.

(2) A person who knowingly aids, abets, counsels or procures another person to commit any offence under *subsection (1)* or conspires with another person for the commission of any such offence shall be guilty of an offence.

(3) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or (at the discretion of the court) to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £5,000 or (at the discretion of the court) to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(4) No action shall lie against an examiner in respect of anything done by him or her in good faith and in pursuance of his or her functions as an examiner.

Refusal of access to certain information.

F63[53. (1) Notwithstanding any other enactment, the Minister may refuse access to information specified in *subsection (4)* (in this section referred to as the ‘specified information’).

(2) The Minister may, following consultation with the Minister for Public Expenditure and Reform, by regulations prescribe a public body for the purposes of this section.

(3) Notwithstanding any other enactment, where a public body stands prescribed for the time being under *subsection (2)* that public body shall refuse access to the specified information unless the Minister—

(a) consents to the public body granting access to that information, or

(b) directs the public body to grant access to that information.

(4) The specified information is any information—

(a) which would enable the compilation of information (that is not otherwise available to the general public) in relation to the comparative performance of—

(i) recognised schools in respect of the academic achievement of students, or

(ii) education or training facilities in respect of the academic achievement of learners,

including, without prejudice to the generality of the foregoing—

(I) the overall results or outcomes in any period of time of students in a recognised school or learners in an education or training facility in an examination or assessment, or

(II) the comparative overall results or outcomes in any period of time of students in different recognised schools or learners in different education or training facilities in an examination or assessment,

or

(b) relating to the identity of examiners.

(5) In this section—

‘Act of 2013’ means the Education and Training Boards Act 2013;

‘education or training facility’ has the same meaning as it has in the Act of 2013;

‘learner’ has the same meaning as it has in the Act of 2013;

'public body' has the same meaning as it has in the Freedom of Information Act 2014.]

Annotations

Amendments:

F63 Substituted (5.05.2015) by *Education (Miscellaneous Provisions) Act 2015* (11/2015), s. 7, commenced on enactment.

Editorial Notes:

E26 Power pursuant to section exercised (11.08.2015) by *Education Act 1998 (Section 53) (Prescribed Public Bodies) Regulations 2015* (S.I. No. 353 of 2015), in effect as per reg. 2.

E27 Previous affecting provision: section amended (17.05.2013) by *Education (Miscellaneous Provisions) Act 2007* (9/2007), s. 5, S.I. No. 166 of 2013; substituted as per F-note above.

PART IX

BODIES CORPORATE

Establishment of bodies to provide services related to education.

54.—(1) The Minister, with the concurrence of the Government, may from time to time by order (in this Act referred to as an “establishment order”) establish a body to perform, subject to *subsection (2)*, functions in or in relation to the provision of support services.

(2) The performance of functions by a body established under *subsection (1)* shall be subject to the determination of matters of policy by the Minister.

(3) A body established under *subsection (1)* shall be known by such title as may be specified in the establishment order.

(4) A body so established shall be a body corporate with perpetual succession and a seal and with power to sue and be sued in its corporate name and to hold land.

(5) The Minister may from time to time by order amend an establishment order or an order made under this subsection.

F64[(6) The principal officer of a body established under *subsection (1)* shall be accountable to that body.]

(7) Before making an order under this section the Minister shall consult, as the Minister considers appropriate, with persons directly affected by the proposed order or with trade unions or associations representing such persons.

(8) Notwithstanding *section 5*, the Minister shall not make an order under this section unless he or she has first caused to be laid before each House of the Oireachtas a draft of the proposed order and a resolution approving of the draft has been passed by both Houses.

Annotations

Amendments:

F64 Substituted (2.06.2004) by *Vocational Education (Amendment) Act 2001* (23/2001), s. 36(b), S.I. No. 918 of 2004.

Editorial Notes:

- E28** Power pursuant to section exercised (11.07.2017) by *Educational Research Centre (Establishment) (Amendment) Order 2017* (S.I. No. 309 of 2017).
- E29** Power pursuant to section exercised (9.09.2015) by *Educational Research Centre (Establishment) Order 2015* (S.I. No. 392 of 2015), in effect as per art. 5.
- E30** Power pursuant to section exercised (6.03.2003) by *State Examinations Commission (Establishment) Order 2003* (S.I. No. 373 of 2003), in effect as per art. 4.
- E31** Previous affecting provision: power pursuant to section exercised (24.12.2003) by *National Council for Special Education (Establishment) Order 2003* (S.I. No. 270 of 2004), in effect as per art. 5; Council established under Order dissolved (1.10.2005) by *Education for Persons with Special Educational Needs Act 2004* (30/2004), s. 45(1), S.I. No. 636 of 2005.

- Membership and staff.** **55.—**(1) Every establishment order shall contain such provisions as the Minister considers appropriate in relation to—
- (a) the number of members of the body established by the order, the method, terms and conditions of their appointment and their tenure of office, and
 - (b) the number, grades, qualifications, method of appointment (including secondment), conditions of service, tenure of office and the remuneration and superannuation of the persons employed in or by the body so established.
- (2) A person seconded or transferred to a body established under *section 54*, shall not, while in the service of that body, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which that person was entitled and the conditions of service to which that person was subject prior to such secondment or transfer.
- Functions.** **56.—**An establishment order shall contain such provisions as the Minister considers appropriate defining the functions of the body established by the order and the manner in which and the conditions under which the body so established may perform the functions so defined.
- Administration.** **57.—**An establishment order shall contain such provisions relating to the administration generally of the body established by the order as the Minister considers appropriate including provisions relating to—
- (a) the meetings of the body so established and the procedure at such meetings,
 - (b) the use and authentication of its seal,
 - (c) the regulation of its finances and the keeping and auditing of its accounts, and
 - (d) the furnishing to the Minister by such body from time to time of information regarding the performance of its functions, and the furnishing of such information to the Minister at any time at his or her request.
- Grants.** **58.—**In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to a body appointed under *section 54* a grant for the purposes of expenditure by that body in the performance of its functions.

Annotations**Modifications (not altering text):**

C20 Functions transferred and reference to “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3 and 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

3. The functions conferred on the Minister for Finance by or under the provisions of —

- (a) the enactments specified in Schedule 1, and
- (b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...
No. 51 of 1998	Education Act 1998	Sections 12(1), 13(12), 23(1), 24(2)(5) and (6), 31(2) and (6), 32(7), 43(3), 44(1) and (2), 45, 46(1) and 58; Schedule 1, paragraph 9
...

Revocation of establishment order.

59.—(1) The Minister may at any time by order revoke an establishment order.

(2) A revoking order shall contain such provisions as the Minister thinks necessary or expedient consequential on the revocation, and, in particular, may make provision for—

(a) the dissolution of the body established by the establishment order and the transfer or distribution of the property, rights and liabilities thereof to any of the following—

(i) the Minister, or

(ii) any one or more than one other body established by an establishment order,

(b) the preservation of continuing contracts made by the dissolved body,

(c) the continuance of pending legal proceedings,

(d) notwithstanding any restriction in any other Act, the transfer of the holder of any office under the dissolved body to—

(i) the Department of Education and Science, or

(ii) any other body established by an establishment order.

F65[Part X

Admission to Schools]

Annotations

Amendments:

F65 Inserted (3.10.2018) by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, S.I. No. 396 of 2018.

F66[Definitions **60.** In this Part—

‘Act of 2000’ means the Equal Status Act 2000;

‘admission statement’ has the meaning assigned to it by *section 61*;

‘annual admission notice’ has the meaning assigned to it by *section 63*;

‘applicant’ means the parent of a student or, in the case of a student who has reached the age of 18 years, the student, who has made an application for admission to a school;

‘board’ includes a committee established under *section 44(1) or 44(7) of the Education and Training Boards Act 2013*;

‘independent person’ in relation to a school, does not include—

- (a) the patron of the school,
- (b) a member or former member of the board of the school,
- (c) a teacher, former teacher, other member of the staff or former other member of the staff of the school,
- (d) an applicant or a parent of a student in the school, or
- (e) a spouse, civil partner (within the meaning of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010*), child, parent, brother or sister of a person specified in *paragraph (a), (b), (c) or (d)*;

‘intake group’ means the intake of students for the most junior class or year in a school, which in the case of a school with an early intervention class or an early start pre-school class specified in a list published by the Minister from time to time, does not include such class;

‘oversubscribed’, in relation to a school, means—

- (a) in respect of the intake group of the school, that the number of students seeking admission to the intake group is greater than the number of places being made available by the school in respect of the intake group concerned,
- (b) in respect of a special class, that the number of students seeking admission to the special class is greater than the number of places being made available by the school in respect of the class concerned, or
- (c) in respect of any other class or year, that the number of students seeking admission to the class or year is greater than the number of places being made available by the school in respect of the class or year concerned;

‘school’ means a recognised school other than a recognised school that is situated in a hospital or approved centre (within the meaning of the Mental Health Act 2001) which is specified in a list of such schools published by the Minister from time to time;

‘school year’, in relation to a school, means the period commencing on the day the school reopens for tuition after the school’s summer holidays and ending on the last day in the following year that the school is open for tuition before the commencement of the school’s summer holidays for that year;

‘special class’ means a class that has, with the approval of the Minister, been established by a school to provide an education exclusively for students with a category or categories of special educational needs specified by the Minister;

‘special educational needs’ has the same meaning as it has in the Education for Persons with Special Educational Needs Act 2004;

‘student’ means a person in relation to whom an application for admission to a school has been made;

‘waiting list’ shall be construed in accordance with *section 62(7)(i).*]

Annotations

Amendments:

- F66** Inserted (3.10.2018) by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, S.I. No. 396 of 2018.

F67[Admission statement

61. ...]

Annotations

Amendments:

- F67** Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

Modifications (not altering text):

- C21** Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

F67[**61.** (1) Subject to *subsection (2)*, the admission policy of a school shall include a statement (in this Part referred to as an ‘admission statement’) that the school shall not discriminate in its admission of a student to the school on—

- (a) the gender ground of the student or the applicant in respect of the student concerned,
- (b) the civil status ground of the student or the applicant in respect of the student concerned,
- (c) the family status ground of the student or the applicant in respect of the student concerned,
- (d) the sexual orientation ground of the student or the applicant in respect of the student concerned,
- (e) the religion ground of the student or the applicant in respect of the student concerned,
- (f) the disability ground of the student or the applicant in respect of the student concerned,
- (g) the ground of race of the student or the applicant in respect of the student concerned,

(h) the Traveller community ground of the student or the applicant in respect of the student concerned, or

(i) the ground that the student or the applicant in respect of the student concerned has special educational needs.

(2) In the case of—

(a) a school to which section 7(3)(a) of the Act of 2000 applies, that admits students of one gender only, the admission statement of the school shall include a statement that the school does not discriminate in relation to the admission of students where it refuses to admit as a student a person who is not of that gender,

(b) a school to which section 7(3)(c) (amended by section 11(a)(i) of the Education (Admission to Schools) Act 2018) of the Act of 2000 applies, whose objective is to provide education in an environment which promotes certain religious values, the admission statement of the school shall include a statement that the school does not discriminate in relation to the admission of students where it admits persons of a particular religious denomination in preference to others,

(c) a school to which section 7(3)(ca) (inserted by section 11(a)(ii) of the Education (Admission to Schools) Act 2018) of the Act of 2000 applies, whose objective is to provide education in an environment which promotes certain religious values, the admission statement of the school shall include a statement that the school does not discriminate in relation to the admission of students where it refuses to admit as a student a person who is not of a particular religious denomination and it is proved that the refusal is essential to maintain the ethos of the school,

(d) a school to which section 7(3)(cb) (inserted by section 11(a)(ii) of the Education (Admission to Schools) Act 2018) of the Act of 2000 applies, the admission statement of the school shall include a statement that the school does not discriminate in relation to the admission of students where it admits as a student a person in accordance with section 7A (inserted by section 11(b) of the Education (Admission to Schools) Act 2018) of the Act of 2000,

(e) a school that, with the approval of the Minister, provides an education exclusively for students with a category or categories of special educational needs specified by the Minister, the admission statement of the school shall include a statement that the school may refuse to admit a student who does not have the specified category of special educational needs concerned, and

(f) a school that, in addition to the general admission of students has, with the approval of the Minister, established a class to provide an education exclusively for students with a category or categories of special educational needs specified by the Minister, the admission statement of the school shall include a statement that the school may refuse to admit to the class concerned a student who does not have the specified category of special educational needs concerned.

(3) In this section ‘civil status ground’, ‘disability ground’, ‘discriminate’, ‘family status ground’, ‘gender ground’, ‘ground of race’, ‘religion ground’, ‘sexual orientation ground’ and ‘Traveller community ground’ shall be construed in accordance with section 3 of the Act of 2000.]

F68[Admission policy

62. ...]

Annotations

Amendments:

F68 Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

Modifications (not altering text):

C22 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

F68[62. (1) Subject to this Act, regulations under this Act and such terms and conditions as may be attached to recognition of a school by the Minister under *section 10*, the board of the school shall following consultation with the patron, parents of students attending the school, the staff of the school, and such other persons as the Minister may determine, prepare a draft admission policy in respect of the school.

(2) (a) The first draft admission policy under *subsection (1)* shall be prepared by the board as soon as practicable and in any event not later than 3 months after the commencement of this subsection.

(b) Where a board proposes making any amendments to its admission policy the board shall prepare a revised draft admission policy and this section shall, with any necessary modifications, apply to that draft as if it were a draft admission policy under *subsection (1)*.

(3) The board shall submit the draft admission policy prepared under *subsection (1)* to the patron for approval.

(4) The patron following consideration of the draft admission policy submitted under *subsection (3)* and within the prescribed period shall—

(a) approve the draft, or

(b) approve the draft subject to modifications.

(5) Where the patron has approved the draft admission policy under *subsection (4)(b)*, the patron shall return the draft to the board and specify the modifications to be made to the draft and the board shall, as soon as practicable, make the specified modifications and return the amended draft to the patron and the patron shall approve the amended draft.

(6) Where the patron has approved a draft admission policy under *subsection (4)(a)* or an amended draft under *subsection (5)* the patron shall forward the approved policy to the board and the board shall, within the prescribed period, publish the policy (in this Act referred to as an 'admission policy').

(7) An admission policy shall—

(a) set out the characteristic spirit and general objectives of the school,

(b) include an admission statement and set out—

(i) in the case of a school that, with the approval of the Minister, provides an education exclusively for students with a category or categories of special educational needs specified by the Minister, the category or categories of special educational needs concerned,

(ii) in the case of a school that, in addition to the general admission of students has, with the approval of the Minister, established a class to provide an education exclusively for students with a category or categories of special educational needs specified by the Minister, the category or categories of special educational needs concerned,

(c) provide that the school shall admit each student seeking admission to the school including, where appropriate, each student seeking admission to a special class in the school, other than—

(i) where the school is oversubscribed,

(ii) where the parent of a student, when required by the principal in accordance with section 23(4) of the Education (Welfare) Act 2000, fails to confirm in writing that the code of behaviour of the school is acceptable to him or her and that he or she shall make all reasonable efforts to ensure compliance with such code by the student,

(iii) in the case of a school that admits students of one gender only, where the school refuses to admit as a student a person who is not of that gender,

(iv) in the case of a school whose objective is to provide education in an environment which promotes certain religious values, where the school refuses to admit as a

- student a person who is not of that denomination and it is proved that the refusal is essential to maintain the ethos of the school,
- (v) in the case of a school that, with the approval of the Minister, provides an education exclusively for students with a category or categories of special educational needs specified by the Minister, where the student does not have the specified category of special educational needs concerned, or
- (vi) in the case of a student seeking admission to a special class in the school, where the student does not have the category of special educational needs specified by the Minister in respect of that class,
- (d) set out the selection criteria which shall be applied where the school is oversubscribed,
- (e) provide that the school shall not, when deciding on an application to the school, or when placing a student on a waiting list for admission to the school, consider or take into account any of the following:
- (i) a student's prior attendance at a pre-school or pre-school service, other than in relation to a student's prior attendance at—
- (I) an early intervention class, or
- (II) an early start pre-school,
- specified in a list published by the Minister from time to time;
- (ii) the payment of fees or contributions (howsoever described) to the school, other than in accordance with *section 64*;
- (iii) other than in relation to a course known as a post leaving certificate course or a further education and training course and subject to *subsections (8) and (9)*, a student's academic ability, skills or aptitude;
- (iv) the occupation, financial status, academic ability, skills or aptitude of a student's parents;
- (v) a requirement that a student, or his or her parents, attend an interview, open day or other meeting as a condition of admission, other than in the case of admission to the residential element of a boarding school or to a course known as a post leaving certificate course or to a course known as a further education and training course;
- (vi) subject to *subsection (10)*, a student's connection to the school by virtue of a member of his or her family attending or having previously attended the school;
- (vii) the date and time on which an application for admission was received by the school, subject to *subsection (11)* and subject to the application being received at any time during the period specified for receiving applications set out in the annual admission notice of the school for the school year concerned or, where appropriate, at any time during the period as otherwise determined by the school in accordance with this Act or regulations made under this Act,
- (f) set out the manner and sequence in which the selection criteria will be applied, including the arrangements that shall apply in cases where 2 or more students are tied for a place or places in the school,
- (g) provide, where a school is oversubscribed, that any selection criteria that are not included in the admission policy of the school shall not be taken into account in determining whether or not a student is admitted to the school,
- (h) provide that the admission policy of a second level school that provides education through the medium of Irish may provide for the inclusion of students that have attended a primary school that provides education through the medium of Irish,
- (ha) provide that a decision on an application for admission shall be based on—
- (i) the implementation of the school's admission policy including, where applicable, the annual admission notice of the school, and
- (ii) the information provided by the applicant in the application for admission received before the closing date set out in the annual admission notice of the school or, where

- appropriate, the date as otherwise determined by the school in accordance with this Act or regulations made under this Act,
- (i) provide, where a school is oversubscribed, that the school shall compile a waiting list of students whose applications for admission to the school were unsuccessful due to the school being oversubscribed, which shall remain valid for the school year in which admission is being sought subject to—
- (i) the school placing students on the list in accordance with the order of priority assigned to the students' applications, after the school has applied the selection criteria in accordance with its admission policy, and
- (ii) the school offering any further school places that become available for and during the school year in relation to which admission is being sought to those students on the waiting list, in accordance with the order of priority in relation to which the students have been placed on the list,
- (j) provide that, in accepting an offer of admission, an applicant shall indicate—
- (i) whether or not he or she has accepted an offer of admission for another school or schools and, where the applicant has so accepted, he or she shall provide details of the offer or offers concerned, and
- (ii) whether or not he or she has applied for and is awaiting confirmation of an offer of admission from another school or schools, and where the applicant has so applied, he or she shall provide details of the other school or schools concerned,
- (k) provide that where a student has not been offered admission, the reasons that he or she was not offered admission shall be provided in writing to the applicant including, where applicable, details of the student's ranking against the selection criteria and details of the student's place on the waiting list,
- (l) provide that an offer of admission may not be made or may be withdrawn where—
- (i) it is established that information contained in the application is false or misleading in a material respect,
- (ii) an applicant fails to confirm acceptance of an offer of admission on or before the date set out in the annual admission notice of the school or, where appropriate, the date as otherwise determined by the school in accordance with this Act or regulations made under this Act,
- (iii) the parent of a student, when required by the principal in accordance with section 23(4) of the Education (Welfare) Act 2000, fails to confirm in writing that the code of behaviour of the school is acceptable to him or her and that he or she shall make all reasonable efforts to ensure compliance with such code by the student, or
- (iv) the applicant has not complied with *paragraph (j)*,
- (m) provide that an applicant may request the board to review a decision to refuse admission and that a decision to refuse admission may be appealed in accordance with *section 29(1)(c)(i) or (ii)*,
- (n) provide details of the school's arrangements in respect of any student, where the parent of that student, or in the case of a student who has reached the age of 18 years, the student, has requested that the student attend the school without attending religious instruction at the school (which arrangements shall not result in a reduction in the school day in respect of the student concerned),
- (o) be consistent with any agreement in relation to the provision of infrastructure or funding to the school made between the Minister and the school,
- (p) include a declaration that the board or person acting on its behalf shall not, except in accordance with *section 64*, charge fees for or seek payment or contributions (howsoever described) as a condition of—
- (i) an application for admission of a student to the school, or
- (ii) the admission or continued enrolment of a student in the school,

- (q) set out procedures for the admission of students who are not already admitted to the school—
- (i) to classes or years other than the school's intake group, and
 - (ii) after the commencement of the school year in relation to which admission is sought including, where appropriate, in accordance with *paragraph (i)*,
- and
- (r) contain such additional information as may be prescribed in regulations under *section 65*.

(8) Notwithstanding *subsection (7)(e)(iii)* in relation to—

- (a) a school approved by the Minister to provide an education exclusively for students with a specified category or categories of special educational needs, or
- (b) a special class,

a student's academic ability, skills or aptitude may be considered or taken into account insofar only as is necessary in order to ascertain whether or not the student has the category of special educational needs concerned.

(9) (a) Notwithstanding *subsection (7)(e)(iii)*, and subject to this subsection, an Irish language school may prioritise the admission of a student where the school is satisfied that the student has attained a level of fluency in the Irish language and that the said fluency would be likely to regress were the student not admitted to an Irish language school.

(b) An applicant may, when making an application for admission to an Irish language school, include a statement confirming that the student in respect of whom the application concerned relates has attained a level of fluency in the Irish language and that the said fluency would be likely to regress were the student not admitted to an Irish language school.

(c) When making an application in accordance with *paragraph (b)*, the applicant shall provide such evidence as he or she considers appropriate in relation to the level of fluency in the Irish language of the student in respect of whom the application relates, which may include confirmation that the student concerned is available to attend an interview or meeting to demonstrate his or her level of fluency in the Irish language.

(d) In satisfying itself that a student has attained a level of fluency in the Irish language and that the said fluency would be likely to regress were the student not admitted to an Irish language school, a school shall take into account only the evidence that the applicant has provided in accordance with *paragraph (c)*.

(e) An Irish language school may not rank in order of preference, for the purposes of admission to the school concerned, a student who has satisfied the school in accordance with *paragraph (a)* relative to other students who have satisfied the school in accordance with that *paragraph*, by virtue of the students' relative fluency in the Irish language.

(f) Nothing in *paragraph (e)* shall preclude an Irish language school from applying the selection criteria set out in the school's admission policy to students who have satisfied the school in accordance with *paragraph (a)*, where the number of such students is greater than the number of places available.

(g) Nothing in this subsection shall be construed as permitting an Irish language school to require a student attend an interview or other meeting to assess his or her level of fluency in the Irish language.

(h) In this subsection—

'Irish language school' means a school that provides education through the medium of Irish;

'level of fluency in the Irish language', in relation to a student, means a level of fluency indicative of what would be expected of a student who uses the Irish language as a normal means of communication in a non-educational environment, taking into account the age and any special educational needs of the student concerned.

(10) *Subsection (7)(e)(vi)* shall not apply to selection criteria based on a student's connection to the school by virtue of—

- (a) a sibling of the student concerned attending or having attended the school, or

(b) a parent or grandparent of the student concerned having previously attended the school, provided the maximum number of places filled pursuant to that criterion does not exceed 25 per cent of the available places as set out in the school's annual admission notice for the school year concerned.

(11) (a) Notwithstanding *subsection (7)(e)(vii)*, a school may apply a selection criterion based on the date on which an application for admission or an expression of interest in applying for admission was received by the school where, prior to the coming into operation of this subsection the school had confirmed, in writing, to the person who made the application or expression of interest that the name of the child in respect of whom the application or expression of interest had been made had been placed on a list maintained by the school for the purpose of allocating school places in the school year concerned.

(b) *Paragraph (a)* shall cease to have effect 5 years after it comes into operation.

(12) In this section—

'code of behaviour' has the same meaning as it has in the Education (Welfare) Act 2000;

'pre-school service' has the same meaning as it has in section 58A (inserted by section 92 of the Child and Family Agency Act 2013) of the Child Care Act 1991.]

F69[Annual admission notice

63. ...]

Annotations

Amendments:

F69 Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

Modifications (not altering text):

C23 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

F69[63. (1) Subject to this Act and any regulations made under this Act, the board of a school shall, each year, prepare a notice (in this Part referred to as an 'annual admission notice') in respect of the admission of students to the school for the school year concerned.

(2) The board shall, prior to accepting applications for admission to the school for the school year concerned, in the prescribed manner and within the prescribed period, publish the annual admission notice.

(3) An annual admission notice shall—

(a) provide details in relation to how to obtain—

(i) a copy of the school's admission policy, and

(ii) an application form for admission to the school,

(b) subject to *subsection (4)* and any regulations under *section 65*, set out—

(i) the date on which the school shall commence accepting applications for admission to the school for the school year concerned,

(ii) the date on which the school shall cease accepting applications for admission to the school for the school year concerned, which date shall be at least 3 weeks after the date referred to in *subparagraph (i)*,

(iii) in respect of an application for admission to an intake group or special class, the date by which the applicant shall be notified of the decision in relation to his or her application,

- (iv) in respect of an application for admission to an intake group or special class, the date by which the applicant shall confirm acceptance of the offer of admission,
- (c) in relation to the school year concerned, set out—
- (i) the number of places being made available in the intake group,
- (ii) in the case of a boarding school, the number of residential and the number of non-residential places being made available, and
- (iii) in the case of a school with a special class, the number of places being made available in the special class concerned,
- (d) in the case of a school where the intake group or a special class in the school was oversubscribed in the school year prior to the school year in relation to which admission is being sought, include a statement setting out the number of applications received and the number and order of offers made in that school year in respect of each of the school's selection criteria,
- (e) include such other information as may be prescribed in regulations under *section 65*.
- (4) In relation to—
- (a) a boarding school, different dates may be provided under *subsection (3)(b)* in respect of the residential and the non-residential places in the school concerned, and
- (b) a school with a special class, different dates may be provided under *subsection (3)(b)* in respect of places in the special class concerned.
- (5) In this section, a reference to admission to a school means a reference to admission to the intake group of the school or admission to a special class in the school.]

F70[Prohibition on charging admission and enrolment fees

64. (1) Subject to *subsection (2)*, a board or person acting on a board's behalf shall not charge fees for, or seek payments or contributions (howsoever described) as a condition of—

- (a) an application for admission of a student to the school, or
- (b) the admission or continued enrolment of a student in the school.

(2) *Subsection (1)* shall not apply in respect of—

- (a) fees charged by the category of schools known as fee charging post primary schools, which schools are specified in a list of fee charging post primary schools published by the Minister from time to time,
- (b) fees charged by the category of schools known as boarding schools, which schools are specified in a list of boarding schools published by the Minister from time to time, insofar as those fees relate solely to the cost of providing residential boarding places,
- (c) fees charged by schools that provide courses known as post leaving certificate courses, insofar as those fees relate to the cost of providing such courses, or
- (d) fees charged by schools that provide further education and training courses, in respect of such courses.]

Annotations

Amendments:

F70 Inserted (3.10.2018) by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, S.I. No. 396 of 2018.

F71[Regulations 65. ...]

Annotations**Amendments:**

F71 Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

Modifications (not altering text):

C24 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

F71[65. (1) The Minister may, having regard to the principles of inclusion and equality of access to and participation in education and the principles of efficiency, effectiveness, clarity and fairness for applicants and schools, and following consultation with bodies representative of patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, make regulations for the purpose of the preparation and publication by schools of admission policies and the admission of students to schools.

(2) Regulations under this section may—

- (a) contain different provisions in relation to different categories of schools or different categories of students, and
- (b) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Without prejudice to the generality of *subsection (1)* and *(2)*, regulations under this section may provide for all or any of the following:

- (a) requirements in relation to the preparation and publication of an admission policy including all or any of the following:
 - (i) the period during which a patron may consider and approve a draft admission policy under *section 62(4)*;
 - (ii) the manner in which and period during which a board shall publish and may otherwise make available an admission policy and information in relation to the application process;
 - (iii) the frequency in relation to which a board shall undertake a review of its admission policy;
 - (iv) the manner in which and period during which a board shall review its admission policy;
 - (v) the consultation process that a board shall undertake when reviewing its admission policy; and
 - (vi) details of additional information in relation to any of the matters referred to in *paragraphs (a) to (q)* of *section 62(7)* to be included in an admission policy;
- (b) selection criteria that schools shall be permitted to apply in cases where the school is oversubscribed;
- (c) selection criteria that schools shall be permitted to apply in cases where 2 or more students are tied for a place or places in the school;
- (d) requirements in relation to the admission process, including in relation to all or any of the following:
 - (i) information that shall be contained in—
 - (I) an annual admission notice, and
 - (II) an application form;

- (ii) the manner in which, and period during which a board shall publish an annual admission notice;
- (iii) documents and information that a school shall not require an applicant to submit with an application, which may include photographs of the student, references from a school previously attended by the student, information in relation to the parents of the student, or information in relation to any medical condition, disability, or special educational needs of the student;
- (iv) the manner in which and period during which applications for admission may be made, which may include setting the earliest date on which a school may accept applications for admission and setting the closing date for applications;
- (v) the manner in which and periods during which a decision shall be made in relation to an application for admission;
- (vi) the manner in which and period during which a school shall notify an applicant as to the decision on his or her application;
- (vii) information that shall be contained in a notification under *subparagraph (vi)*;
- (viii) the manner in which and periods during which an applicant shall confirm his or her acceptance of an offer of admission which may, where an applicant has accepted more than one offer or where an applicant has applied for and is awaiting confirmation of an offer of admission from another school or schools, include the manner in which and periods during which an applicant shall provide final confirmation to the relevant schools of the offer that he or she wishes to accept and any offers that he or she does not wish to accept;
- (ix) conditions that, in order to facilitate the efficient admission of students to schools, applicants shall be required to adhere to when applying for or accepting a place in a school;
- (x) the procedures that shall apply when an offer is withdrawn;
- (xi) arrangements and procedures that shall apply in relation to the compilation and operation of waiting lists of unsuccessful applicants;
- (xii) arrangements and procedures that shall apply in relation to making offers of admission for places that become available following completion of the admission process;
- (xiii) arrangements and procedures that shall apply in relation to applications for admission received after the commencement of the school year in which admission is sought;
- (xiv) arrangements and procedures that shall apply in relation to applications for admission to a class or year other than the intake group of the school concerned.]

F72[Co-operation
between boards

66. (1) The Minister may, from time to time, subject to *subsection (2)*, and following consultation with the patron or patrons and the boards of the schools concerned, direct 2 or more boards to co-operate with each other in relation to the admission processes of the schools concerned.

(2) The Minister may make a direction under this section where—

- (a) a school is due to close, and the Minister considers that it is in the best interests of the students attending the school, or
- (b) the Minister considers, having regard to the effective and efficient use of resources, that it is in the best interests of the students in an area that the boards in respect of which the direction is to apply shall co-operate with each other in relation to the admission processes of the schools concerned.

(3) A direction under this section—

- (a) shall be in writing,

(b) shall be for such period as the Minister, following consultation with the patron or patrons and the boards of the schools concerned, determines, and

(c) may set out procedures in relation to co-operation by the boards in respect of the admission processes of the schools concerned.

(4) The Minister, where he or she considers it appropriate to do so, following consultation with the patron or patrons and the boards of the schools concerned, may—

(a) amend a direction under this section,

(b) extend the period of a direction under this section, or

(c) cancel a direction under this section.

(5) A board shall comply with a direction under this section.

(6) (a) A board may, in order to facilitate the efficient admission of students, provide a patron or another board with a list of the students in relation to whom—

(i) an application for admission to the school concerned has been received,

(ii) an offer of admission to the school concerned has been made, or

(iii) an offer of admission to the school concerned has been accepted.

(b) A list provided by the board under *paragraph (a)* may include all or any of the following details:

(i) the date on which an application for admission was received by the school;

(ii) the date on which an offer of admission was made by the school;

(iii) the date on which an offer of admission was accepted by an applicant;

(iv) a student's personal details including his or her name, address, date of birth and personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005).]

Annotations

Amendments:

F72 Inserted (3.10.2018) by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, S.I. No. 396 of 2018.

F73[Designation of school by Council or Child and Family Agency **67. ...]**

Annotations

Amendments:

F73 Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

Modifications (not altering text):

C25 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

F73[67. (1) In the case of a child with special educational needs, the Council may—

(a) of its own volition, or

(b) at the request of the parents of the child, where the Council is of the opinion that the parents of the child, after having made all reasonable efforts, have failed, for reasons related to the child's special educational needs, to obtain any school placement for the child,

designate the school which the child is to attend and that school shall admit the child upon being directed by the Council to do so.

(2) In making a designation under *subsection (1)*, the Council shall have regard to—

(a) the special educational needs of the child concerned,

(b) the wishes of the child's parents,

(c) where appropriate, and in accordance with the age and maturity of the child concerned, the wishes of the child,

(d) the availability of places in schools in the locality,

(e) the school that, in the Council's view, it would be in the best interests of the child concerned to attend, with preference given to the child's local school unless the best interests of the child require otherwise,

(f) the ability of the school to accommodate the child concerned and to meet his or her special educational needs, including that ability when resources are made available to the school, in accordance with the policies relating to education generally and the education of children with special educational needs, which are formulated from time to time by the Minister.

(3) The Agency may, in the case of a child other than a child in relation to whom a designation under *subsection (1)* may be made—

(a) of its own volition, where the child has no school place, or

(b) at the request of the parents of the child, where the Agency is of the opinion that the parents of the child, after having made all reasonable efforts, have failed to obtain any school placement for the child,

designate the school which the child is to attend and that school shall admit the child, upon being directed by the Agency to do so.

(4) In making a designation under *subsection (3)*, the Agency shall have regard to—

(a) the wishes of the child's parents,

(b) where appropriate, and in accordance with the age and maturity of the child concerned, the wishes of the child,

(c) the availability of places in schools in the locality,

(d) the school that, in the Agency's view, it would be in the best interests of the child to attend.

(5) Where a school is designated under *subsection (1)* or *(3)*, the board of the school may, not later than the date determined in procedures under *subsection (19)*, appeal the decision to an appeals committee.

(6) Subject to *subsection (7)*, on hearing an appeal under *subsection (5)* an appeals committee shall within the period determined in procedures under *subsection (19)*—

(a) allow the appeal and cancel the designation, or

(b) dismiss the appeal.

(7) The appeals committee shall, in reaching its decision, allow an appeal under *subsection (5)* and cancel the designation only where it is satisfied that the Agency or the Council has failed to

comply with any of the requirements of this section or the school has established that the decision of the Agency or the Council, as the case may be, is unreasonable.

(8) Where—

- (a) the Council has failed or refused to make a designation under *subsection (1)* pursuant to a request under *paragraph (b)* of that subsection within the period determined in procedures under *subsection (19)*, or
- (b) the Agency has failed or refused to make a designation under *subsection (3)* pursuant to a request under *paragraph (b)* of that subsection within the period determined in procedures under *subsection (19)*,

the parents concerned may, within the period determined in procedures under *subsection (19)*, appeal to an appeals committee against the failure or refusal to make a designation.

(9) On hearing an appeal under *subsection (8)*, an appeals committee shall, within the period determined in procedures under *subsection (19)*—

- (a) allow the appeal and give a direction to the Council or the Agency, as the case may be, requiring the Council or the Agency to designate a school, and the Council or the Agency, as the case may be, shall comply with such direction, or
- (b) dismiss the appeal.

(10) When notifying—

- (a) the board of its decision to allow or dismiss an appeal under *subsection (5)*, or
- (b) the parents of its decision to allow or dismiss an appeal under *subsection (8)*,

a committee shall give reasons for its decision.

(11) The Minister shall appoint one or more than one committee (in this section referred to as an 'appeals committee') to hear and determine appeals under this section.

(12) An appeals committee shall be independent in the performance of its functions.

(13) An appeals committee shall consist of a chairperson and such number of ordinary members as may be determined by the Minister, and, in the case of an equal division of votes, the chairperson shall have a casting vote.

(14) The chairperson and ordinary members of an appeals committee shall be appointed by the Minister from among persons who have a special interest in or knowledge of education and shall, in the case of any appeal concerning a child with special educational needs, include at least one person who has a special interest in or knowledge in relation to the education of persons with special educational needs.

(15) The term of office of the chairperson and the ordinary members of an appeals committee shall be for such period as shall be determined by the Minister.

(16) The chairperson or an ordinary member of an appeals committee may resign by letter addressed to the Minister.

(17) The chairperson or an ordinary member of an appeals committee may be removed from office by the Minister for stated misbehaviour.

(18) The chairperson and the ordinary members of an appeals committee shall be paid such allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.

(19) The Minister may, in the interests of the operation of an efficient appeals process under this section and following consultation with the Minister for Children and Youth Affairs, the Council, the Agency, bodies representative of patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, determine procedures to—

- (a) be followed by an appeals committee when hearing an appeal under this section, which procedures shall ensure that hearings are conducted with the minimum of formality consistent with giving all parties a fair hearing,
- (b) specify time limits applicable to appeals, and

(c) provide for any other related or ancillary matter.

(20) In this section—

‘Agency’ means the Child and Family Agency;

‘board’ includes, where the context so requires, a relevant managerial authority of a centre for education;

‘child’ includes a person in respect of whom an application for admission to a school has not been made;

‘Council’ means the National Council for Special Education;

‘school’ includes a centre for education.]

F74[Direction to board and appointment of independent person by patron
68. ...]

Annotations

Amendments:

F74 Inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

Modifications (not altering text):

C26 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018* (14/2018), s. 9, not commenced as of date of revision.

F74[**68.** (1) Subject to this section, the patron of a school may issue a direction to the board of a school and, where the board has failed to comply with the direction, the patron may appoint an independent person.

(2) A patron shall, by notice in writing, inform a board where he or she proposes to issue a direction under this section.

(3) A notice under *subsection (2)* shall—

(a) state that the patron is of the opinion that—

(i) the board has failed to prepare and publish an admission policy,

(ii) the admission policy of the school does not comply with this Act,

(iii) students are not being admitted to the school in accordance with—

(I) this Act, or

(II) the admission policy of the school,

(iv) the board has failed to comply with *section 64*, or

(v) the board has failed to comply with a direction under *section 29D, 29E, 66, 67(1) or 67(3)*,

(b) set out the reasons for that opinion,

(c) state that the patron proposes to issue a direction under this section, and

(d) state that the board may make representations to the patron in relation to the proposed direction not later than 14 days after the service of the notice.

(4) The patron may issue a direction in writing to the board where, having considered any representations made by the board pursuant to a notice under *subsection (2)*, the patron remains of the opinion that *subparagraph (i), (ii), (iii), (iv) or (v) of subsection (3)(a)* applies.

(5) A direction under this section shall—

- (a) state that the patron is of the opinion, having considered any representations made by the board pursuant to a notice under subsection (2), that he or she should issue a direction to the board,
- (b) set out the reasons for that opinion,
- (c) set out the remedial action to be taken by the board, and
- (d) set out the period within which the remedial action shall be taken.

(6) A board shall comply with a direction under this section.

(7) Where the patron is of the opinion that the board has failed to comply with a direction under this section, the patron may, by notice in writing, inform the board that he or she proposes to appoint an independent person under subsection (9)(b).

(8) A notice under *subsection (7)* shall—

- (a) state that the patron is of the opinion that the board has failed to comply with a direction under this section,
- (b) set out the reasons for that opinion,
- (c) state that the patron proposes to appoint an independent person under *subsection (9)(b)*, and
- (d) state that the board may make representations to the patron in relation to the proposed appointment not later than 14 days after the service of the notice.

(9) Where, having considered any representations made pursuant to a notice under *subsection (7)*, the patron remains of the opinion that the board has failed to comply with a direction under this section, the patron may, where he or she considers it is appropriate to do so—

- (a) forward a copy of the notice under *subsection (7)* and any representations made pursuant to that notice to the Minister, and
- (b) appoint an independent person or persons, who, in the opinion of the patron, has the relevant knowledge and experience, to carry out the remedial action set out in the direction.

(10) An appointment under *subsection (9)(b)* shall be subject to the consent of the Minister and shall be for such period as the patron, with the consent of the Minister, determines.

(11) The patron may, with the consent of the Minister, extend the period referred to in *subsection (10)*.

(12) The patron shall, by notice in writing, inform the board where he or she has appointed an independent person under *subsection (9)(b)* and give reasons for the appointment.

(13) A person appointed under *subsection (9)(b)* shall carry out the remedial action set out in the direction under this section within such period as the patron, with the consent of the Minister, may direct.

(14) The board, teachers and other members of the staff of the school shall co-operate (including giving access to all relevant records) with a person appointed under *subsection (9)(b)* in relation to the performance by that person of his or her functions under this Act.

(15) In this section and *section 69* a reference to an admission policy includes a reference to an annual admission notice.]

Annotations**Amendments:**

F75 Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

Modifications (not altering text):

C27 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

F75[69. (1) Subject to this section, the Minister may issue a direction to a board.

(2) The Minister shall, by notice in writing, inform the patron and the board where he or she proposes to issue a direction under this section.

(3) A notice under *subsection (2)* shall—

(a) state that the Minister is of the opinion that—

(i) the board has failed to prepare and publish an admission policy,

(ii) the admission policy of the school does not comply with this Act,

(iii) students are not being admitted to the school in accordance with—

(I) this Act, or

(II) the admission policy of the school,

(iv) the board has failed to comply with *section 64*, or

(v) the board has failed to comply with a direction under *section 29D, 29E, 66, 67(1) or 67(3)*,

(b) set out the reasons for that opinion,

(c) state that the Minister proposes to issue a direction under this section, and

(d) state that the patron and the board may make representations to the Minister in relation to the proposed direction not later than 14 days after the service of the notice.

(4) Where the Minister, having considered any representations made by the patron and the board pursuant to a notice under *subsection (2)*, remains of the opinion that *subparagraph (i), (ii), (iii), (iv) or (v) of subsection (3)(a)* applies the Minister may nominate a person (in this section referred to as an 'authorised person') who, in the opinion of the Minister, has the relevant knowledge and experience to prepare a report for the purposes of this section.

(5) The Minister shall, by notice in writing, inform the patron and the board where he or she has appointed an authorised person under *subsection (4)* and give reasons for the appointment.

(6) The authorised person shall, within such period as the Minister specifies, prepare and furnish to the Minister a report for the purposes of this section (in this section referred to as a report).

(7) The Minister, may where he or she considers it appropriate to do so, extend the period referred to in *subsection (6)*.

(8) When preparing a report an authorised person shall, having regard to the opinion of the Minister stated in the notice under *subsection (2)* and any representations made to the Minister by the patron or the board pursuant to that notice, do one or more of the following—

(a) ascertain whether or not a board has prepared and published an admission policy in accordance with this Act, and where he or she considers that the admission policy of the school has not been so prepared or published, set out the remedial action which he or she considers should be taken by the board,

(b) ascertain whether or not the admission policy of the school complies with this Act, and where he or she considers that the admission policy of the school does not so comply, set out the remedial action which he or she considers should be taken by the board,

(c) ascertain whether or not students are being admitted to the school in accordance with this Act and the admission policy of the school, and where he or she considers that students

- are not being so admitted, set out the remedial action which he or she considers should be taken by the board,
- (d) ascertain whether or not the board is complying with *section 64*, and where he or she considers that the board is not so complying, set out the remedial action which he or she considers should be taken by the board, and
- (e) ascertain whether or not the board has complied with a direction under *section 29D, 29E, 66, 67(1) or 67(3)*, and where he or she considers that the board has not so complied, set out the remedial action which he or she considers should be taken by the board.
- (9) Where, having considered a report, the Minister remains of the opinion that *subparagraph (i), (ii), (iii), (iv) or (v) of subsection (3)(a)* applies, the Minister may issue a direction in writing to the board of the school concerned.
- (10) A direction under this section shall—
- (a) state that the Minister is of the opinion, having regard to the report, that he or she should issue a direction to the board,
- (b) set out the reasons for that opinion,
- (c) attach a copy of the report,
- (d) set out the remedial action to be taken by the board, and
- (e) set out the period within which the remedial action shall be taken.
- (11) The Minister shall forward a copy of a direction under this section to the patron.
- (12) A board shall comply with a direction under this section.
- (13) The patron, board, teachers and other members of the staff of the school shall co-operate (including giving access to all relevant records) with an authorised person in relation to the performance by that person of his or her functions under this Act.
- (14) An authorised person shall be paid by the Minister such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Public Expenditure and Reform, may determine.]

F76[Request to patron by Minister

70. ...]

Annotations

Amendments:

F76 Inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

Modifications (not altering text):

C28 Prospective affecting provision: section inserted by *Education (Admission to Schools) Act 2018 (14/2018)*, s. 9, not commenced as of date of revision.

F76[**70.** (1) Where the Minister is of the opinion that a board has failed to comply with a direction under *section 69*, he or she may, by notice in writing, inform the patron and the board.

(2) A notice under *subsection (1)* shall—

(a) state that the Minister is of the opinion that the board has failed to comply with a direction under *section 69*,

(b) set out the reasons for that opinion, and

(c) state that the patron and the board may, within 14 days of the notice, make representations to the Minister in relation to the Minister's opinion.

(3) Where the Minister remains of the opinion, having considered any representations made pursuant to a notice under *subsection (1)*, that the board has failed to comply with a direction under *section 69*, he or she may request the patron of the school concerned to direct the board to comply with the direction under *section 69*.

(4) A patron shall comply with a request of the Minister under *subsection (3)*.

(5) A board shall comply with a direction of the patron under *subsection (3)*.

(6) Where, following a direction by the patron to the board to comply with a direction under *section 69*, the patron is of the opinion that the board has failed to comply with the direction the patron shall, by notice in writing, inform the board.

(7) A notice under *subsection (6)* shall—

(a) state that the patron is of the opinion that the board has failed to comply with a direction under *section 69*,

(b) set out the reasons for that opinion,

(c) state that the patron proposes to appoint an independent person under *subsection (8)*, and

(d) state that the board may make representations to the patron in relation to the proposed appointment not later than 14 days after the service of the notice.

(8) Where the patron remains of the opinion, having considered any representations made by the board pursuant to a notice under *subsection (6)*, that the board has failed to comply with a direction under *section 69*, the patron shall appoint an independent person who, in the patron's opinion, has the relevant knowledge and experience to carry out the remedial action set out in the direction under *section 69*.

(9) The patron shall forward to the Minister a copy of a notice under *subsection (6)* and any representations made pursuant to that notice.

(10) An appointment under *subsection (8)* shall be for such period as the patron determines, and shall be subject to the consent of the Minister.

(11) A patron may, with the consent of the Minister, extend the period referred to in *subsection (10)*.

(12) A person appointed under *subsection (8)* shall carry out the remedial action set out in the direction under *section 69* within such period as the patron, with the consent of the Minister, may direct.

(13) The board, teachers and other members of the staff of the school shall co-operate (including giving access to all relevant records) with a person appointed under *subsection (8)* in relation to the performance by that person of his or her functions under this Act.]

Section 39.

SCHEDULE 1

THE COUNCIL

1. (1) As soon as may be after its establishment the Council shall acquire and retain in its possession a seal.

(2) The seal of the Council shall be authenticated by the signature of the chairperson or a member of the Council authorised by the Council to act in that behalf and by the signature of an officer of the Council authorised to act in that behalf.

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

2. (1) The Minister shall appoint the chairperson of the Council.

(2) The chairperson may, at any time, resign from office as chairperson by letter addressed to the Minister and the resignation shall take effect from the date on which the letter is received.

3. The term of office of a member (including the chairperson) shall not be greater than five years.

4. (1) If a member of the Council dies, resigns, becomes disqualified, is removed from office or for any other reason ceases to hold office, the Minister may appoint a person to be a member of the Council to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Council who occasioned the casual vacancy.

(2) A person appointed to be a member of the Council in accordance with this paragraph shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy he or she is appointed to fill and shall be eligible for re-appointment as a member of the Council.

5. (1) The Minister may, at any time, remove a member of the Council from office if he or she has committed stated misbehaviour or if his or her removal appears necessary to the Minister for the effective performance by the Council of its functions.

(2) The Minister may, at any time, for reasons stated in writing to the members of the Council, remove all such members from office.

(3) A member may, at any time, resign from office as such member by letter addressed to the Minister and the resignation shall take effect from the date on which the letter is received.

(4) A member of the Council who is absent from all meetings of the Council for a period of six consecutive months, unless such absence was due to illness or was approved by the Council, shall be disqualified at the expiry of such period from continuing to be a member of the Council for the remainder of that person's term of office.

(5) A member (including the chairperson) whose term of office expires by effluxion of time shall be eligible for re-appointment.

6. (1) The Council shall, from time to time as occasion requires, appoint from amongst its members (other than the chairperson) two members to be deputy-chairpersons of the Council.

(2) A deputy-chairperson of the Council shall, unless that member sooner resigns, hold office until the expiration of that member's period of office as a member of the Council.

7. (1) Where a member of the Council (including the chairperson)—

- (a) accepts nomination as a member of Seanad Éireann, or
- (b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament, or
- (c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to the European Parliament to fill a vacancy, or
- (d) is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors, or
- (e) is sentenced to a term of imprisonment by a court of competent jurisdiction,

that member shall thereupon cease to be a member of the Council.

(2) A person shall not be eligible to be a member of the Council if that person—

- (a) is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein, or
- (b) is for the time being a member of the European Parliament, or
- (c) is an undischarged bankrupt, or
- (d) within the immediately preceding three years has, under the protection or procedure of a court, made a composition or arrangement with creditors, or
- (e) within the immediately preceding five years, has been sentenced to a term of imprisonment by a court of competent jurisdiction.

8. A member of the Council including the chairperson who has—

- (a) any interest in any company or concern with which the Council proposes to make any contract, or
- (b) any interest in any contract which the Council proposes to make,

shall disclose to the Council the fact of the interest and the nature thereof and shall take no part in any deliberation or decision of the Council relating to the contract, and the disclosure shall be recorded in the minutes of the Council.

9. The chairperson and members of the Council shall be paid, out of funds at the disposal of the Council, such allowances for expenses as the Minister, with the approval of the Minister for Finance, may decide.

10. (1) The Council shall hold such and so many meetings and at such time as the chairperson deems necessary.

(2) A chairperson shall convene a meeting of the Council whenever requested to do so by not less than six members.

(3) The quorum for a meeting of the Council shall be one third of the total number of members, rounded up to the next whole number, plus one.

11. At a meeting of the Council—

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

(b) if and so long as the chairperson is not present or if the office of chairperson is vacant, the deputy-chairperson who is present or if both deputy-chairpersons are present the deputy-chairperson as chosen by the members of the Council who are present shall, be chairperson of the meeting,

(c) if and so long as the chairperson is not present or the office of chairperson is vacant, and a deputy-chairperson is not present or the offices of deputy-chairperson are vacant, the members of the Council who are present shall choose one of their number to be chairperson of the meeting.

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

13. Subject to *paragraph 10 (3)*, the Council may act notwithstanding one or more than one vacancy among its members.

14. Subject to this Act, the Council shall regulate, by standing orders or otherwise, its procedure and business.

Section 50.

SCHEDULE 2

EXAMINATIONS

Leaving Certificate Examination

Junior Certificate Examination

Technological Certificate Examination

Trade Certificate Examination

Certificate in Commerce Examination

Ceardeastas Gaeilge Examination

Teastas i dTeagasc na Gaeilge Examination

Typewriting Teachers Certificate Examination

Commercial Instructors Certificate Examination