



**AN BILLE UM ÚDARÁS Náisiúnta Fostaíochta agus
Oiliúna, 1986**
**NATIONAL EMPLOYMENT AND TRAINING AUTHORITY
BILL, 1986**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Establishment day.
3. Establishment of National Employment and Training Authority.
4. Functions of Authority.
5. Conferral of additional functions on Authority.
6. Director General.
7. Staff of Authority and subsidiary.
8. Superannuation of staff of Authority.
9. Membership of either House of Oireachtas or of Assembly of European Communities by members or staff of Authority.
10. Advances by Minister to Authority.
11. Accounts of Authority and subsidiary and auditors.
12. Reports and information to Minister.
13. Disclosure of information.
14. Investment of moneys by Authority and subsidiary.
15. Borrowing by Authority and subsidiary.
16. Gifts.

Section

17. Directions by Minister to Authority.
18. Dissolution of An Chomhairle, winding up and dissolution of Agency and Council and winding up of Manpower Service.
19. Transfer of certain property and liabilities of Minister, An Chomhairle, Agency and Council to Authority.
20. Preservation of certain continuing contracts and adaptation of references to Minister, An Chomhairle, Agency and Council in certain documents.
21. Saving for certain orders, regulations, rules, exemptions, committees, etc.
22. Pending legal proceedings.
23. Completion of certain matters commenced by Minister, An Chomhairle, Agency or Council.
24. Amendment of section 24 of Act of 1967.
25. Employment and Training Levy.
26. Repeals.
27. Exemption from stamp duty.
28. Expenses.
29. Short title.

SCHEDULE

THE AUTHORITY

PART I

Membership and Procedure of Authority

PART II

Election of Authority Employees' Members of Authority

ACTS REFERRED TO

Companies Act, 1963	1963, No. 33
European Assembly Elections Act, 1977	1977, No. 30
European Assembly Elections Act, 1984	1984, No. 6
Finance Act, 1895	1895, c. 16

Holidays (Employees) Act, 1973	1973, No. 25
Industrial Training Act, 1967	1967, No. 5
Minimum Notice and Terms of Employment Act, 1973	1973, No. 4
Redundancy Payments Acts, 1967 to 1979	
Superannuation Acts, 1834 to 1963	
Unfair Dismissals Act, 1977	1977, No. 10
Youth Employment Agency Act, 1981	1981, No. 32



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BILL

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entitled

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO
THE PROVISION OF TRAINING AND RE-TRAINING FOR
EMPLOYMENT, THE PROVISION OF WORK EXPERI- 10
ENCE AND THE ESTABLISHMENT OF EMPLOYMENT
SCHEMES AND JOB PLACEMENT SERVICES, FOR
THOSE AND OTHER PURPOSES TO PROVIDE FOR THE
ESTABLISHMENT OF A BODY TO BE KNOWN AS AN
tÚDARÁS NÁISIÚNTA FOSTAÍOCHTA AGUS OILIÚNA
OR, IN THE ENGLISH LANGUAGE, THE NATIONAL 15
EMPLOYMENT AND TRAINING AUTHORITY AND TO
DEFINE ITS FUNCTIONS, TO PROVIDE FOR THE DIS-
SOLUTION OF AN CHOMHAIRLE OILIÚNA, THE
YOUTH EMPLOYMENT AGENCY AND C.E.R.T. LIM- 20
ITED AND THE WINDING UP OF THE NATIONAL MAN-
POWER SERVICE OF THE MINISTER FOR LABOUR AND
THE TRANSFER OF THEIR FUNCTIONS TO THE
NATIONAL EMPLOYMENT AND TRAINING AUTH-
ORITY AND TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: 25

Definitions.

1.—(1) In this Act—

“the Act of 1967” means the Industrial Training Act, 1967;

“the Agency” means the Youth Employment Agency formed and
registered under the Youth Employment Agency Act, 1981;

“the Authority” means the body established by *section 3*; 30

“An Chomhairle” means An Chomhairle Oiliúna;

“the Council” means C.E.R.T. Limited;

“the establishment day” means the day appointed by the Minister
under *section 2*;

“the Manpower Service” means the National Manpower Service of 35
the Minister;

“the Minister” means the Minister for Labour;

- “recognised trade unions and staff associations” means trade unions and staff associations recognised by the Authority for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions, of employees;
- 5 “the subsidiary” means the subsidiary (within the meaning of the Companies Act, 1963), if any, of the Authority acquired, or formed and registered, by it pursuant to *section 4 (6)*.
- (2) (a) In this Act a reference to a section or schedule is to a section of, or the *Schedule* to, this Act unless it is indicated
10 that reference to some other enactment is intended.
- (b) In this Act a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other
15 provision is intended.
- 2.—The Minister may by order appoint a day to be the establishment day for the purposes of this Act. Establishment day.
- 3.—(1) On the establishment day there shall stand established a body to be known as An tÚdarás Náisiúnta Fostaíochta agus Oiliúna
20 (or, in the English language, the National Employment and Training Authority), and in this Act referred to as “the Authority”, to perform the functions assigned to it by this Act. Establishment of National Employment and Training Authority.
- (2) The provisions of the *Schedule* shall have effect with respect to the Authority.
- 25 4.—(1) The principal functions of the Authority shall be— Functions of Authority.
- (a) to provide, or arrange for, encourage and foster the provision of, training and re-training for employment and to assist (whether financially or otherwise) in, and co-ordinate, the provision of such training by others,
- 30 (b) to provide, or arrange for, encourage and foster the provision of, employment schemes and to assist (whether financially or otherwise) manage, administer and co-ordinate such schemes and to assist (whether financially or otherwise) in, and co-ordinate, the provision of such schemes by
35 others,
- (c) to provide, or arrange for, encourage and foster the provision of, assistance in obtaining employment in the State for persons seeking such employment, whether under contracts of service or contracts for services and to assist
40 (whether financially or otherwise) in, and co-ordinate, the provision of such assistance by others,
- (d) to provide, or arrange for the provision of, assistance in obtaining work experience in employment,
- 45 (e) to provide, or arrange for the provision of, whether for reward or otherwise—
- (i) services whereby persons seeking, and persons offering, employment in the State are brought into contact with each other,

- (ii) services consisting of the placing of persons in employment, and
 - (iii) services consisting of the provision of guidance, advice and information in respect of choice of career and employment, 5
- and to assist (whether financially or otherwise) in, and co-ordinate, the provision of such services by others,
- (f) to facilitate and assist (whether financially or otherwise) local community groups and co-operatives of workers or of members of local communities in the provision of employment by means of the establishment and enlargement of enterprises of any kind, to encourage and foster their establishment by such groups and co-operatives and to assist (whether financially or otherwise) such groups and co-operatives in their management, administration and supervision, 10 15
 - (g) whenever so requested by them, to facilitate and assist persons, in whatever manner the Authority considers necessary or desirable, in obtaining employment in a state that is a member of the European Communities, 20
 - (h) to collect, collate, prepare, publish and distribute from time to time information (including statistics and forecasts and extrapolations of trends and developments) in relation to services or activities provided or carried on by or on behalf of the Authority and such other matters respecting its functions as the Minister may specify and to publish and distribute analyses of the information aforesaid prepared by or on behalf of the Authority, 25
 - (i) to furnish, whenever it so thinks fit or is so requested by the Minister, advice to the Minister in relation to any matter connected with the functions or activities of, or the services provided by, the Authority, and 30
 - (j) to carry out, or arrange for the carrying out, of research into any matter related to the functions or activities of, or the services provided by, the Authority. 35
- (2) The Authority shall also have and enjoy all those functions that were vested in An Chomhairle, the Agency, the Council and the Manpower Service immediately before the establishment day and are not specified in *subsection (1)*.
- (3) The Authority shall have all such powers as are necessary or expedient for the performance of its functions. 40
- (4) The Authority may, in respect of persons who are ordinarily resident in the State and who avail of or participate in the services or activities provided or carried on by the Authority in the State—
- (a) provide, or arrange for the provision of, outside the State any of the services that it is authorised by this section or under *section 5* to provide, or arrange for the provision of, in the State, and 45
 - (b) carry on, or arrange for the carrying on of, outside the State any of the activities that it is authorised by this section or under *section 5* to carry on in the State. 50

(5) The Authority may, with the consent of the Minister, provide in the State any of its services, or carry on in the State any of its activities, for the benefit of persons who are not ordinarily resident in the State.

5 (6) (a) The Authority may, with the consent of the Minister and the Minister for Finance, outside the State—

(i) perform any of the functions, provide any of the services or carry on any of the activities that it is authorised by this Act to perform, provide or carry on in the State, and

10 (ii) provide advisory and consultancy services in relation to—

(I) the performance of functions outside the State by other persons,

15 (II) the provision of services outside the State by other persons, or

(III) the carrying on of activities outside the State by other persons,

20 being functions, services and activities similar to those that the Authority is authorised by this Act to perform, provide and carry on in the State.

(b) Functions, services and activities specified in *paragraph (a)* shall be performed, provided and carried on through one subsidiary (within the meaning of the Companies Act, 1963) that is wholly owned by the Authority and, accordingly, the Authority may, with the consent of the Minister and the Minister for Finance, for the purpose of such performance, provision and carrying on, acquire or form and register one, but not more than one, subsidiary (within the meaning aforesaid).

(c) The memorandum and articles of association of the subsidiary shall be in such form as may be determined by the Authority with the consent of the Minister, the Minister for Finance and, in so far as they relate to the staff of the subsidiary, the Minister for the Public Service.

(d) The Minister may give a direction in writing to the Authority on any matter relating to the subsidiary or the policies, programmes or activities of the subsidiary and the Authority shall comply or, as may be appropriate, secure compliance with the direction.

(e) A direction under this subsection in relation to the disposal of any assets or profits of the subsidiary shall not be given without the consent of the Minister for Finance.

45 (7) (a) The Authority or the subsidiary, as the case may be, shall make such charges as it considers appropriate in consideration of the performance of a function, the provision of a service or the carrying on of an activity pursuant to *subsection (5) or (6)* but the charges shall not, unless the Minister and the Minister for Finance consent, be less than the cost of the performance of the function, the provision of the service or the carrying on of the activity, as the case may be.

- (b) The amount of a charge under this section may be recovered by the Authority or the subsidiary, as the case may be, from the person on whom it was made as a simple contract debt in any court of competent jurisdiction.

(8) In this section "assist" includes advise and consult and "assistance" shall be construed accordingly. 5

Conferral of additional functions on Authority.

5.—(1) The Minister may, if he so thinks fit, by order—

- (a) confer on the Authority such additional functions connected with the functions for the time being of the Authority or the services or activities that the Authority is authorised for the time being to provide or carry on as he considers appropriate, and 10

- (b) make such provision as he considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Authority of functions under this section or the performance by the Authority of functions so conferred. 15

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

(3) Where an order is proposed to be made under this section, a draft thereof shall be laid before each House of the Oireachtas and the order shall not be made until a motion approving of the draft has been passed by each such House. 20

Director General.

6.—(1) There shall be a chief executive officer of the Authority (who shall be known, and is referred to in this Act, as the Director General). 25

(2) The Director General shall carry on and manage and control generally the administration and business of the Authority and shall perform such other functions as may be determined by the Authority.

(3) The Director General shall hold office on and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as may be determined by the Minister with the consent of the Minister for the Public Service. 30

(4) The Director General shall be paid such allowances for expenses incurred by him as the Minister may, with the consent of the Minister for the Public Service, determine. 35

(5) The first Director General shall be appointed, and may be removed from office at any time, by the Minister; each subsequent Director General shall be appointed, and may be removed from office at any time, by the Authority with the consent of the Minister. 40

Staff of Authority and subsidiary.

7.—(1) (a) The Authority may appoint such, and such number of, persons to be members of the staff of the Authority as it may determine with the consent of the Minister and the Minister for the Public Service.

(b) The board of the subsidiary may appoint such, and such number of, persons to be members of the staff 45

of the subsidiary as it may determine with the consent of the Minister and the Minister for the Public Service.

5 (2) (a) A member of the staff of the Authority (other than the Director General) or of the staff of the subsidiary shall be paid, out of the moneys at the disposal of the Authority or the subsidiary, as the case may be, such remuneration and allowances for expenses incurred by him as the Authority, or the subsidiary, as the case may be, with the consent of the Minister and the Minister for the Public Service, may determine.

10 (b) A member of the staff of the Authority referred to in paragraph (a) or the staff of the subsidiary shall hold his office or employment on such other terms and conditions as the Authority or, as the case may be, the board of the subsidiary, with the consent of the Minister and the Minister for the Public Service, may determine.

15 (3) The grades of the staffs of the Authority and the subsidiary, and the numbers of each staff in each grade, shall be determined by the Authority with the consent of the Minister and the Minister for the Public Service or, as the case may be, the board of the subsidiary with the consent of the Minister and the Minister for the Public Service.

20 (4) (a) Every person who immediately before the establishment day is a member of the staff of An Chomhairle, the Agency or the Council shall, on that day, be transferred to, and become a member of the staff of, the Authority.

25 (b) Every officer of the Minister who has been designated by the Minister at any time before such day as may be appointed by the Minister by order shall on the day of such designation, be transferred to, and become a member of the staff of, the Authority.

30 (5) (a) The terms and conditions relating to tenure of office which are granted by the Authority in relation to a member of the staff of the Authority who was transferred by subsection (4) to its staff from An Chomhairle, the Agency or the Council shall not, while he is in the service of the Authority, be less favourable to him than those prevailing immediately before the establishment day in An Chomhairle, the Agency or the Council, as may be appropriate, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

35 (b) The terms and conditions relating to tenure of office which are granted by the Authority in relation to a member of the staff of the Authority who was designated by the Minister and under subsection (4) transferred by that subsection to its staff shall not, while he is in the service of the Authority, be less favourable to him than those prevailing for the time being in the civil service; any alteration in the conditions in regard to tenure of office of any such member shall not be such as to render those conditions less favourable to him than those prevailing in the civil service at the time of such alteration save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned. If a dispute arises between the Authority and any such member as to conditions prevailing in the civil service,

the matter shall be determined by the Minister for the Public Service after consultation with the Minister.

(6) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a member of the staff of An Chomhairle, the Agency or the Council, or an officer of the Minister designated by the Minister under *subsection* (4), who is transferred by that subsection to the staff of the Authority shall not, while in the service of the Authority, receive a lesser scale pay or be made subject to less beneficial terms and conditions of service (other than those relating to tenure of office) than the scale of pay to which he was entitled and the terms and conditions of service (other than those relating to tenure of office) to which he was subject immediately before the day on which he was so transferred.

(7) Until such time as the scales of pay and the terms and conditions of service (other than those relating to tenure of office) of staff so transferred are varied by the Authority, following consultation with any recognised trade unions and staff associations concerned, the scales of pay to which they were entitled and the terms and conditions of service (other than those relating to tenure of office), restrictions, requirements and obligations to which they were subject immediately before their transfer shall continue to apply to them and may be applied or imposed by the Authority or the Director General, as the case may be, while they are in the service of the Authority. No such variation shall operate to worsen the scales of pay or the terms or conditions of service aforesaid applicable to a member of such staff immediately before the day on which he was transferred by *subsection* (4) to the staff of the Authority, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

(8) In relation to staff transferred by *subsection* (4) to the staff of the Authority, previous service in An Chomhairle, the Agency, the Council or the civil service shall be reckonable for the purposes of, but subject to any other exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1979, the Holidays (Employees) Act, 1973, the Minimum Notice and Terms of Employment Act, 1973, and the Unfair Dismissals Act, 1977.

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

Superannuation of staff of Authority.

8.—(1) The Authority may, with the consent of the Minister and the Minister for the Public Service, make a scheme or schemes for the granting of superannuation benefits to or in respect of persons appointed, or transferred by *section* 7, to whole-time positions on the staff of the Authority.

(2) A scheme under *subsection* (1) shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.

(3) The Authority may, with the consent of the Minister and the Minister for the Public Service, make a scheme amending or revoking a scheme under this section including a scheme under this subsection.

(4) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for the Public Service, whose decision shall be final.

(5) No superannuation benefit shall be granted by the Authority on the resignation, retirement or death of a member of the staff of the Authority otherwise than in accordance with a scheme or schemes under this section.

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

 (7) (a) A scheme or schemes under *subsection (1)* shall, as respects a person transferred by *section 7* to a whole-time position on the staff of the Authority, provide for the granting to or in respect of him of superannuation benefits upon and
15 subject to terms and conditions that are not less favourable to him than the terms and conditions applied to him immediately before the day on which he was so transferred in relation to the grant of such benefits.

 (b) Where, during the period between the establishment day and the coming into operation of a scheme under this section, superannuation benefits would have been granted to or in respect of a person transferred by *section 7* to the staff of the Authority in respect of his employment with An Chomhairle, the Agency or the Council or as an
20 officer of the Minister, the superannuation benefits shall be granted and paid to or in respect of the person by the Authority.

 (c) (i) The assets, rights and liabilities (including the obligation to make payments in respect of superannuation benefits) of or under any scheme for the granting of superannuation benefits to or in respect of members of the staff of An Chomhairle, the Agency or the Council shall on the establishment day vest in the Authority without any further conveyance, transfer or assignment for, as respects the assets, all the estate,
30 term or interest, as the case may be, for which the assets were vested in An Chomhairle, the Agency or the Council, as the case may be, immediately before the establishment day.

 (ii) All moneys, stocks, shares and securities transferred to the Authority by this subsection that, on the establishment day, are standing in the books of any corporation or company in the name of An Chomhairle, the Agency or the Council or of any person who, on
40 the establishment day, is a trustee of a scheme for the granting of superannuation benefits to or in respect of members of the staff of An Chomhairle, the Agency or the Council shall, upon the request of the Authority, be transferred into its name or into the name of such person as it may specify.
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 (8) (a) The Minister for Finance shall make such contribution as may, with his consent, be specified in a scheme or schemes under this section towards the superannuation benefits related to reckonable service (within the meaning of the Superannuation Acts, 1834 to 1963) given before the day
55 on which he was transferred by *section 7* to the staff of the Authority which may be granted to or in respect of a

member of such staff who, immediately before that day, was an officer of the Minister and who was designated by the Minister under *section 7* and such scheme or schemes shall, with the like consent, fix the manner and times of the payment of such contribution.

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(b) Moneys required to be paid by the Minister for Finance under *paragraph (a)* shall be advanced out of the Central Fund or the growing produce thereof.

(9) In this section and in *section 9* "superannuation benefits" means pensions, gratuities and other allowances payable on resignation, retirement or death.

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Membership of either House of Oireachtas or of Assembly of European Communities by members or staff of Authority.

9.—(1) Where a member of the Authority is—

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

(b) elected as a member of either House of the Oireachtas or of the Assembly of the European Communities, or

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(c) regarded pursuant to *section 15* (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Assembly to fill a vacancy,

he shall thereupon cease to be a member of the Authority.

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(2) Where a person who is a member of the staff of the Authority is—

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

(b) elected as a member of either House of the Oireachtas or of the Assembly of the European Communities, or

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(c) regarded pursuant to *section 15* (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Assembly to fill a vacancy,

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

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(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the Assembly shall, while he is so entitled or is such a member, be disqualified from becoming a member of the staff of the Authority.

(4) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Authority for the purposes of any pensions, gratuities or other allowances payable on resignation, retirement or death.

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Advances by Minister to Authority.

10.—The Minister may from time to time, with the consent of the Minister for Finance, advance to the Authority, out of moneys provided by the Oireachtas, such sums as the Minister may determine

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for the purposes of expenditure by the Authority in the performance of its functions.

11.—(1) The Authority and the subsidiary 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 of all moneys received or expended by the Authority or the subsidiary, as the case may be, including an income and expenditure account and balance sheet and, in particular, shall keep all such special accounts as the Minister may from time to time direct.

Accounts of Authority and subsidiary and auditors.

(2) Accounts kept in pursuance of this section shall be submitted as soon as may be after the end of the financial year of the Authority or the subsidiary, as the case may be, to which they relate by the Authority to the Comptroller and Auditor General for audit and a copy of the income and expenditure account and of the balance sheet and of such other (if any) of its accounts as the Minister may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister as soon as may be and the Minister shall cause copies of each of the documents aforesaid to be laid before each House of the Oireachtas.

12.—(1) As soon as may be after the end of each financial year of the Authority, but not later than 6 months thereafter, the Authority shall make a report to the Minister of its activities, and those of the subsidiary, during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

Reports and information to Minister.

(2) Each report under *subsection (1)* of this section shall include information in such form and regarding such matters as the Minister may direct.

(3) The Authority shall in each of its financial years furnish to the Minister a report—

(a) outlining its proposed activities and those of the subsidiary in the financial year immediately following and indicating the times at which projects and programmes to be commenced in that year will be commenced and, where appropriate, completed, and

(b) giving estimates of its expenditure and that of the subsidiary in the last mentioned year in relation to those activities, projects and programmes.

(4) The Authority shall, whenever so requested by the Minister, furnish to him information in relation to such matters as he may specify concerning or relating to the scope of its activities, or its strategy, generally or in respect of any account prepared by the Authority or the subsidiary or any report specified in *subsection (1)* or (3) or *section 11 (2)* or the policy and activities, other than day to day activities, of the Authority.

13.—(1) A person shall not, without the consent of the Authority, disclose any information obtained by him while performing duties as a member, or director, or member of the staff of, or an adviser or consultant to, the Authority or the subsidiary.

Disclosure of information.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and liable on summary conviction to a fine not exceeding £800.

(3) Nothing in *subsection (1)* shall prevent the disclosure of information in a report made to the Authority or by or on behalf of the Authority to the Minister.

Investment of
moneys by
Authority and
subsidiary.

14.—The Authority or the subsidiary may, with the consent of the Minister, invest funds of the Authority or the subsidiary, as the case may be, in such manner as the Authority or, as the case may be, the subsidiary thinks fit. 5

Borrowing by
Authority and
subsidiary.

15.—The Authority or the subsidiary may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the Authority or the subsidiary, as the case may be, or otherwise), including money in a currency other than the currency of the State, but shall not do so without the consent of the Minister and the Minister for Finance. 10

Gifts.

16.—(1) The Authority or the subsidiary may accept gifts of money, land or other property upon such trusts or conditions, if any, as may be specified by the donor. 15

(2) The Authority or the subsidiary shall not accept a gift if the trusts or conditions attached to it would be inconsistent with the functions of the Authority or the subsidiary, as the case may be.

Directions by
Minister to
Authority.

17.—(1) (a) The Minister may, if he so thinks fit, give a direction in writing to the Authority requiring it— 20

(i) to provide specified services or to carry on specified activities that it is authorised by *section 4* or *5* of this Act to provide or, as the case may be, carry on, 25

(ii) to refrain from providing specified services or carrying on specified activities,

(iii) to incur expenditure of specified amounts, or to increase by specified amounts its expenditure, on specified services or specified activities that it is authorised by the said *section 4* or *5* to provide or, as the case may be, carry on, or 30

(iv) to refrain from incurring expenditure, or to reduce by specified amounts its expenditure, on specified services or specified activities. 35

(b) References in *paragraph (a)* to the provision of services and to the carrying on of activities include references to the arrangement for such provision and carrying on.

(2) The Minister may give a direction in writing to the Authority in relation to policy generally, in relation to any matter specified in a report furnished to him under *section 11 (2)*, *subsection (1)* or (3) or of *section 12* or in relation to any information furnished to him under *subsection (4)* of the said *section 12*. 40

(3) The Authority shall comply with a direction under this section. 45

Dissolution of An
Chomhairle,
winding up and
dissolution of
Agency and
Council and
winding up of
Manpower Service.

18.—(1) An Chomhairle shall, on the establishment day, become and be dissolved.

5 (2) The Agency and the Council shall, as soon as may be, after the establishment day, procure their winding up and dissolution and shall, as on and from that day, cease to perform any functions or exercise any powers or carry out any duties other than functions, powers or duties the performance, exercise or carrying out of which are necessary for the purposes of their winding up and dissolution.

(3) The Manpower Service shall, on the establishment day, be wound up.

10 (4) References in any Act of the Oireachtas passed before the establishment day or in any instrument made before the establishment day under an Act of the Oireachtas to An Chomhairle, the Agency, the Council or the Manpower Service shall, on and after that day, be construed as references to the Authority.

15 19.—(1) The following shall be and hereby are transferred to the Authority on the establishment day:

Transfer of certain property and liabilities of Minister, An Chomhairle, Agency and Council to Authority.

(a) all property and rights held or enjoyed immediately before that day by An Chomhairle, the Agency or the Council, and

20 (b) all liabilities incurred by the Minister before that day in connection with or for the purposes of the Manpower Service, and all liabilities incurred before that day by An Chomhairle, the Agency or the Council, that had not been discharged before that day, and, accordingly, without any further conveyance, transfer or assignment—

25 (i) the said property, real and personal, shall, on the establishment day, vest in the Authority, for all the estate, term or interest for which, immediately before that day, it was vested in An Chomhairle, the Agency or the Council, as the case may be, but subject to all trusts and equities affecting the property and capable of being performed,

(ii) the said rights shall, as on and from the establishment day, be enjoyed by the Authority, and

35 (iii) the said liabilities shall, as on and from the establishment day, be the liabilities of the Authority.

(2) All moneys, stocks, shares and securities transferred to the Authority by this section which, on the appointed day, are standing in the name of An Chomhairle, the Agency or the Council shall, upon the request of the Authority, be transferred into its name.

40 (3) Every right and liability transferred by *subsection (1)* to the Authority may, on or after the establishment day, be sued on, recovered or enforced by or against the Authority in its own name and it shall not be necessary for the Authority to give notice to the person whose right or liability is transferred by that subsection of the transfer.

45 (4) (a) Such premises occupied immediately before the establishment day by the Minister, for the purposes of the Manpower Service, as may be specified by the Minister for Finance after consultation with the Minister may, on and after that day, be occupied by, or transferred to, the Authority on such terms and conditions as may be agreed upon by the Authority and the Minister for Finance after consultation with the Minister.

- (b) Such other property used, immediately before the establishment day, by the Minister for the purposes of the Manpower Service as may be specified by the Minister for Finance after consultation with the Minister may, on and after that day, be used by, or transferred to, the Authority on such terms and conditions as may be agreed upon by the Authority and the Minister for Finance after consultation with the Minister. 5

Preservation of certain continuing contracts and adaptation of references to Minister, An Chomhairle, Agency and Council in certain documents.

20.—(1) Every bond, guarantee or other security of a continuing nature made or given by or on behalf of the Minister in connection with or for the purposes of the Manpower Service, or by or on behalf of An Chomhairle, the Agency or the Council, to any person or given by any person to and accepted by or on behalf of the Minister in connection with or for the purposes of the Manpower Service, or by or on behalf of An Chomhairle, the Agency or the Council and every contract or agreement in writing made between the Minister in connection with or for the purposes of the Manpower Service, or An Chomhairle, the Agency or the Council, and any other person, and in force but not fully executed and completed immediately before the establishment day shall continue in force on and after that day and shall be construed and have effect as if the name of the Authority were substituted therein for that of the Minister, An Chomhairle, the Agency or the Council, as the case may be, and shall be enforceable by or against the Authority and every arrangement made by An Chomhairle under section 36 or 41 of the Act of 1967, and in force immediately before the establishment day shall continue in force on and after that day and shall be enforceable by or against the Authority. 10 15 20 25

(2) References to the Minister, An Chomhairle, the Agency or the Council contained immediately before the establishment day in the memorandum and articles of association of any company (within the meaning of the Companies Act, 1963), being, as respects references to the Minister, in connection with or for the purposes of the Manpower Service shall, on and after the establishment day, be construed as references to the Authority but, in the case of references to the Minister, to the extent only that the references are in connection with or for the purposes of the Manpower Service. 30 35

Saving for certain orders, regulations, rules, exemptions, committees, etc.

21.—(1) Nothing in this Act shall affect the validity of any order, regulation, rule, exemption, approval or notice made, given or served, or any committee established, declared or appointed, by An Chomhairle under the Act of 1967 before the establishment day and every such order, regulation, rule, exemption, approval, notice and committee shall, if and in so far as it was operative or in existence, as the case may be, immediately before the establishment day, continue in force or continue in existence, as the case may be, and have effect on and after that day as if it had been validly made, given or served or established, declared or appointed under the Act of 1967 by the Authority. 40 45

(2) Nothing in this Act shall affect the validity of any act which was done before the establishment day by or on behalf of the Minister in connection with or for the purposes of the Manpower Service or by or on behalf of An Chomhairle, the Agency or the Council and every such act shall, if and in so far as it was operative immediately before that day, have effect on and after that day as if it had been done by or on behalf of the Authority. 50

Pending legal proceedings.

22.—Where, immediately before the establishment day, any legal 55

proceedings are pending in any court or tribunal and the Minister (by reason of the fact that the proceedings relate to, or to the activities of, the Manpower Service) or An Chomhairle, the Agency or the Council is a party to the proceedings, the name of the Authority shall, as appropriate, be—

(a) substituted in the proceedings for, or added therein to, that of the Minister, or

(b) substituted in the proceedings for that of An Chomhairle, the Agency or the Council,

and the proceedings shall not abate by reason of such substitution or addition.

23.—Anything commenced by the Minister before the establishment day in connection with or for the purposes of the Manpower Service and anything commenced by An Chomhairle, the Agency or the Council before that day may be carried on and completed on and after that day by the Authority.

Completion of certain matters commenced by Minister, An Chomhairle, Agency or Council.

24.—Section 24 of the Act of 1967 is hereby amended by the insertion in subsection (1) after “functions” of “(whether related to the training referred to in section 23 (1) or otherwise)”.

Amendment of section 24 of Act of 1967.

25.—(1) The levy imposed by section 15 of the Youth Employment Agency Act, 1981, shall, on and after the establishment day, be known as Employment and Training Levy and references in that Act and any Act of the Oireachtas passed before that day, and in any instrument made under an Act of the Oireachtas before that day, to Youth Employment Levy shall, on and after that day, be construed as references to Employment and Training Levy.

Employment and Training Levy.

(2) In addition to defraying the expenditure specified in the said section 15, Employment and Training Levy shall be used to defray such other expenditure in relation to training and employment as the Minister may determine with the consent of the Minister for Finance.

26.—(1) Part II of, and the First Schedule to, the Act of 1967 shall, upon the dissolution of An Chomhairle, be repealed.

Repeals.

(2) Sections 2 to 14 of the Youth Employment Agency Act, 1981, shall, upon the dissolution of the Agency, be repealed.

27.—Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Authority, or a person specified by the Authority under section 8(7), of any property or rights transferred by this Act.

Exemption from stamp duty.

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

Expenses.

29.—This Act may be cited as the National Employment and Training Authority Act, 1986.

Short title.

SCHEDULE

THE AUTHORITY

PART I

Membership and Procedure of Authority

1. The Authority shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land or of any other property. 5

2. (1) The Authority shall consist of a chairman, and 15 ordinary members, who shall be appointed to the Authority by the Minister. 10

(2) Notwithstanding *subparagraph (1)* and *paragraph 7*, until the appointment as Authority employees' members of the Authority of the persons elected in accordance with *Part II* of this Schedule in the first election held thereunder, the Authority shall consist of a chairman and 13 ordinary members and its membership shall not include any Authority employees' member. 15

3. The chairman of the Authority may at any time resign his office by letter addressed to the Minister.

4. The Minister may at any time remove the chairman of the Authority from office. 20

5. Subject to the provisions of this Schedule, the chairman shall hold office on such terms and conditions as the Minister may determine.

6. The chairman of the Authority shall be paid, out of moneys at the disposal of the Authority, such remuneration and allowances for expenses incurred by him as the Minister, with the consent of the Minister for the Public Service, may determine. 25

7. (1) Of the ordinary members of the Authority, 4 shall be trade unions' members, 4 shall be employers' members, one shall be an educational member, one shall be a social welfare member, one shall be a youth member, 2 shall be Authority employees' members and 2 shall be representatives of the Minister. 30

(2) The trade unions' members of the Authority shall be the persons nominated for appointment thereto by such organisation that the Minister considers to be representative of trade unions of workers as the Minister may determine. 35

(3) The employers' members of the Authority shall be the persons nominated for appointment thereto by such organisation or organisations that the Minister considers to be representative of employers as the Minister may determine. 40

(4) The educational member of the Authority shall be such person whom the Minister considers to be representative of educational interests as the Minister may determine after consultation with the Minister for Education.

(5) The social welfare member of the Authority shall be such person whom the Minister considers to be representative of social welfare interests as the Minister may determine after consultation with the Minister for Social Welfare. 45

(6) The youth member of the Authority shall be nominated for appointment thereto by such organisation as the Minister considers to be representative of youth as the Minister may determine after consultation with such organisation or organisations as the Minister
5 considers appropriate.

(7) (a) Subject to *clause (b)*, the Authority employees' members of the Authority shall be such persons as are elected in accordance with *Part II* of this Schedule.

(b) (i) If an Authority employees' member of the Authority dies, resigns or leaves the employment of the Authority or becomes disqualified for or is removed from office, the Minister may appoint a person to be a member of the Authority to fill the casual vacancy so occasioned and the person so appointed shall be the
10 next eligible candidate, if any, on the voting list under
15 *paragraph 8* of the said *Part II*.

(ii) When two or more candidates are credited with an equal number of votes in the voting list aforesaid, the Minister shall select one of them by lot.

(iii) A person appointed to be a member of the Authority by virtue of this clause shall hold office for the remainder of the term of office of the member occasioning the vacancy he is appointed to fill.
20

(c) A member of the Authority appointed by virtue of *clause (b)* shall be eligible for nomination as a candidate, and for election, at an election for the purposes of this subparagraph.
25

(8) The members of the Authority representing the Minister shall be, respectively, such officer of the Minister as the Minister may determine and such other person as the Minister may determine.
30

(9) (a) If an ordinary member of the Authority (other than an Authority employees' member of the Authority) dies, resigns, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Authority to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Authority who occasioned the casual vacancy.
35

(b) A person appointed to be a member of the Authority by virtue of this subparagraph shall hold office for the remainder of the term of office of the member occasioning the vacancy he is appointed to fill and shall be eligible for re-appointment as a member of the Authority.
40

8. Each member of the Authority shall be a part-time member of the Authority and, subject to the provisions of this Schedule, each ordinary member of the Authority shall hold office on such terms and conditions as the Minister may determine.
45

9. An ordinary member of the Authority whose term of office expires by effluxion of time shall be eligible for re-appointment as a member of the Authority or for election or re-election for such re-appointment, as may be appropriate.
50

10. The Minister may at any time remove an ordinary member of the Authority from office.

11. An ordinary member of the Authority may resign his office as a member by letter addressed to the Minister.
12. A member of the Authority shall be disqualified from holding and shall cease to hold office if he is adjudged bankrupt or makes a composition or arrangement with creditors or is sentenced by a court of competent jurisdiction to a term of imprisonment or penal servitude or ceases to be ordinarily resident in the State. 5
13. Each ordinary member of the Authority shall be paid, out of moneys at the disposal of the Authority, such remuneration (if any) and allowances for expenses incurred by him (if any) as the Minister, with the consent of the Minister for the Public Service, may sanction. 10
14. The Authority shall hold such and so many meetings as may be necessary for the performance of its functions.
15. The Minister may fix the date, time and place of the first meeting of the Authority. 15
16. The quorum for a meeting of the Authority shall be 9 members.
17. At a meeting of the Authority—
- (a) the chairman of the Authority shall, if present, be the chairman of the meeting,
 - (b) if and so long as the chairman of the Authority is not present or if the office of chairman is vacant, the members of the Authority who are present shall choose one of their number to be chairman of the meeting. 20
18. The chairman of the Authority, and each ordinary member of the Authority, present at a meeting thereof shall have a vote. 25
19. Every question at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.
20. The Authority may act notwithstanding one or more than one vacancy among its members. 30
21. Subject to the provisions of this Schedule, the Authority shall regulate, by standing orders or otherwise, the procedure and business of the Authority.
22. The Authority shall, as soon as may be after its establishment, provide itself with a seal. 35
23. The seal of the Authority shall be authenticated by the signature of the chairman of the Authority or some other member thereof authorised by the Authority to act in that behalf and the signature of an officer of the Authority authorised by the Authority to act in that behalf. 40
24. Judicial notice shall be taken of the seal of the Authority and every document purporting to be an instrument made by the Authority and to be sealed with the seal (purporting to be authenticated in accordance with *paragraph 23*) of the Authority shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown. 45

PART II

Election of Authority Employees' Members of Authority

5 1. (1) The Secretary of the Authority (or a person selected by him after consultation with any recognised trade unions or staff associations concerned) shall be the returning officer for each election of Authority employees' members of the Authority.

(2) The returning officer shall not be entitled to be nominated as, or to nominate, act as agent for or promote the interests of, a candidate at an election.

10 (3) The returning officer may authorise any person to exercise designated functions on his behalf and *subparagraph* (2) shall apply to any such person.

2. (1) A poll shall be conducted where the number of candidates exceeds the number of seats to be filled.

15 (2) Voting shall be by secret ballot and on the basis of proportional representation by means of a single transferable vote.

(3) Presiding officers at a poll and polling clerks shall be appointed by the returning officer.

20 (4) An election shall be held in accordance with arrangements made by the returning officer.

(5) The returning officer shall be required to give due notice of those arrangements to the electorate and to designate premises as an election office.

25 (6) All arrangements for an election shall be subject to the consent of the Minister.

3. (1) The returning officer shall, in relation to an election, after consultation with any recognised trade unions and staff associations concerned—

30 (a) fix the day (in this Part referred to subsequently as "the nomination day") on which persons proposing to be candidates at the election are required to be nominated as such candidates, and

(b) give notice of the election to the electorate not later than 10 weeks before that day.

35 The nomination day for the first election shall be fixed so as to enable the election to take place as soon as may be after the establishment day.

40 (2) The nomination day shall be not earlier than 6 weeks after the day on which eligibility of voters and candidates is determined in accordance with *paragraphs* 11 and 12, respectively.

4. The returning officer may declare each candidate elected if the number of candidates standing duly nominated does not exceed the number of seats to be filled.

45 5. (1) The returning officer may take a preliminary poll, at the request of one or more recognised trade unions or staff associations representing at least 15 per cent. of the electorate, to ascertain

whether or not a majority of the electorate is in favour of proceeding with the election.

(2) The preliminary poll shall be undertaken in accordance with arrangements made by the returning officer and duly notified to the electorate. 5

(3) If a majority at the preliminary poll opposes the election, the holding of the election shall be deferred for 4 years.

(4) The arrangements for a preliminary poll shall be subject to the consent of the Minister.

6. If the nomination of candidates or any poll is interrupted or cannot be proceeded with, the returning officer may adjourn the nomination or poll for such period as he considers appropriate to enable him, on its expiration, to proceed with or complete the nomination or poll. 10

7. On receipt of a notification from the returning officer of the names of candidates elected or declared to be elected under *paragraph 4*, the Minister shall, in accordance with *paragraph 2* of *Part I* of this Schedule, appoint each of the candidates as an Authority employees' member of the Authority. 15

8. The returning officer shall place on a voting list the remaining candidates in order of the number of votes credited to each at the last count in which he was involved. 20

9. The Authority shall bear the cost of holding an election except costs incurred by candidates expressly on their own behalf.

10. Every employee of the Authority who, on such day as may be specified by the returning officer in relation to an election and on the day on which the poll at that election is taken— 25

(a) is not less than 18 years of age, and

(b) has been an employee of the Authority for a continuous period of not less than one year, and 30

(c) works not less than 18 hours a week for the Authority

shall be entitled to vote at the election or preliminary poll.

11. (1) Every employee of the Authority who, on the day specified in relation to an election by the returning officer under *paragraph 10*, is not less than 18 years of age and has been an employee of the Authority for a continuous period of not less than 3 years and works not less than 18 hours a week for the Authority shall be eligible to be nominated as a candidate at the election. 35

(2) Nominations shall be made in the manner prescribed by the returning officer. 40

(3) A candidate may be nominated by a recognised trade union or staff association or jointly by two or more such bodies but no such body shall be entitled both to nominate one or more candidates of its own accord and to nominate one or more candidates jointly with another such body or bodies. 45

(4) The returning officer shall rule on the validity of nominations. His decision shall be final.

12. Prior service (for a continuous period ending on the day of his

transfer by *section 7* to the staff of the Authority) as a member of the staff of An Chomhairle, the Agency or the Council or as an officer of the Minister of persons so transferred shall be reckonable as service with the Authority for the purposes of *paragraphs 10 and 11*.

- 5 13. The returning officer shall prepare and maintain a list of eligible voters and candidates.

14. The returning officer shall prepare and maintain a list of recognised trade unions and staff associations for the purposes of this Part.

AN BILLE UM ÚDARÁS NÁISIÚNTA
FOSTAÍOCHTA AGUS OILIÚNA, 1986

BILLE

(*Mar a tionscnaíodh*)

dá ngairtear

Acht do dhéanamh socrú breise i ndáil le hoiliúint agus athoiliúint a chur ar fáil le haghaidh fostaíochta, le taithí oibre a chur ar fáil agus le scéimeanna fostaíochta agus seirbhísí post-ionadúcháin a bhunú, do dhéanamh foráil, chun na gcíoch sin agus chun críocha eile, chun comhlacht a bhunú ar a dtabharfar an tÚdarás Náisiúnta Fostaíochta agus Oiliúna nó, sa Bhéarla, *the National Employment and Training Authority* agus do shainiú a fheidhmeanna, do dhéanamh foráil chun An Chomhairle Oiliúna, an Ghníomhaireacht Fostaíochta don Aos Óg agus C.E.R.T. Teoranta a dhíscaoileadh agus chun an tSeirbhís Náisiúnta Daonchumhachta de chuid an Aire Saothair a fhoirceannadh, do dhéanamh foráil chun a bhfeidhmeanna a aistriú do dtí an tÚdarás Náisiúnta Fostaíochta agus Oiliúna agus do dhéanamh foráil le haghaidh nithe comhghaolmhara.

An tAire Saothair a thug isteach

Ordáíodh ag Dáil Éireann a chlóbhualadh,
12 Samhain, 1986

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

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NATIONAL EMPLOYMENT AND
TRAINING AUTHORITY
BILL, 1986

BILL

(*As initiated*)

entitled

An Act to make further provision in relation to the provision of training and retraining for employment, the provision of work experience and the establishment of employment schemes and job placement services, for those and other purposes to provide for the establishment of a body to be known as *An tÚdarás Náisiúnta Fostaíochta agus Oiliúna* or, in the English language, the National Employment and Training Authority and to define its functions, to provide for the dissolution of An Chomhairle Oiliúna, the Youth Employment Agency and C.E.R.T. Limited and the winding up of the National Manpower Service of the Minister for Labour, to provide for the transfer of their functions to the National Employment and Training Authority and to provide for connected matters.

Introduced by the Minister for Labour

Ordered by Dáil Éireann to be printed,
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