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AN BILLE OIDEACHAIS, 1997
EDUCATION BILL, 1997

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As initiated

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Companies Acts, 1963 to 1990	
Comptroller and Auditor General (Amendment) Act, 1993	1993, No. 8
European Assembly Elections Act, 1977	1977, No. 30
European Parliament Elections Act, 1993	1993, No. 30
Freedom of Information Act, 1997	1997, No. 13
Guardianship of Infants Act, 1964	1964, No. 7
Health Act, 1970	1970, No. 1
Holidays (Employees) Acts, 1973 and 1991	
Intermediate Education (Ireland) Act, 1878	1878, 41 & 42 Vic. c. 66
Local Authorities (Officers and Employees) Acts, 1926 to 1983	
Local Government Act, 1941	1941, No. 23
Local Government Act, 1955	1955, No. 9
Minimum Notice and Terms of Employment Acts, 1973 to 1991	
Ministers and Secretaries (Amendment) Act, 1956	1956, No. 21
Ombudsman Act, 1980	1980, No. 26
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Unfair Dismissals Acts, 1977 to 1993	
Vocational Education Acts, 1930 to 1970	



AN BILLE OIDEACHAIS, 1997
EDUCATION BILL, 1997

BILL

entitled

5 AN ACT TO MAKE PROVISION IN THE INTERESTS OF THE
COMMON GOOD FOR THE EDUCATION OF EVERY
CHILD IN THE STATE, INCLUDING ANY CHILD WITH
A DISABILITY OR SPECIAL EDUCATIONAL NEEDS,
10 AND TO PROVIDE GENERALLY FOR PRIMARY, POST-
PRIMARY, ADULT AND CONTINUING EDUCATION
AND VOCATIONAL EDUCATION AND TRAINING; TO
ENSURE THAT THE EDUCATIONAL SYSTEM IS
ACCOUNTABLE TO STUDENTS, THEIR PARENTS AND
15 THE STATE FOR THE EDUCATION PROVIDED,
RESPECTS THE DIVERSITY OF VALUES, BELIEFS AND
TRADITIONS IN IRISH SOCIETY AND IS CONDUCTED
IN A SPIRIT OF PARTNERSHIP BETWEEN SCHOOLS,
PATRONS, STUDENTS, PARENTS, STAFF AND THE
20 STATE; TO MAKE PROVISION FOR THE ESTABLISH-
MENT AND MAINTENANCE OF EDUCATION BOARDS,
TO PROVIDE FOR THE RECOGNITION AND FUNDING
OF SCHOOLS AND THEIR MANAGEMENT THROUGH
BOARDS OF MANAGEMENT, TO PROVIDE FOR AN
25 INSPECTORATE OF SCHOOLS, AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—(1) This Act may be cited as the Education Act, 1997.

Short title and
commencement.

30 (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
35 provisions of this Act or different classes of schools.

(3) An order shall not be made in respect of any provision in *Part II* of this Act without the prior consent of the Government.

(4) The functions of an education board under *Parts III, IV, V*
and *VI* of this Act may be exercised by the Minister pending the
40 appointment of education boards.

Interpretation.

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

“board of management” means a board of management established under *section 43*;

“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, are provided; 5

“core curriculum” shall be construed in accordance with *section 56*;

“determination” shall be construed in accordance with *section 21* and cognate words shall be construed accordingly; 10

“Director” means a person appointed pursuant to *section 13*;

“education board” means a board established under *section 7*;

“education plan” has the meaning assigned to it by *section 27*;

“education region” means an education region established under *section 6*; 15

“employee” includes the Director of an education board but shall not include a person seconded to a board pursuant to *section 39*;

“executive function” means any function which is not a reserved function within the meaning of *section 10* and any function which under this Act is a function of the Director; 20

“expenditure” in relation to an education board, means—

(a) the gross non-capital expenditure of the board for a financial year, and

(b) the gross capital expenditure of the board for that year;

“functions” includes powers and duties; 25

“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;

“health board” means a health board established under section 4 of the Health Act, 1970; 30

“the Inspectorate” means the Inspectorate as provided for in *section 39*;

“local authority” means a council of a county or corporation of a county or other borough or the council of an urban district;

“the Minister” means the Minister for Education; 35

“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— 40

(a) established and has a substantial membership in each of the education regions, 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;

5

“net expenditure”, in relation to an education board for a financial year, means the expenditure of the board for the year less the income of the board for that year;

“parent” includes a guardian appointed under the Guardianship of Infants Act, 1964, and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1991, or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter;

10

“parents’ association” means an association to which *section 54* applies;

15

“patron” has the meaning assigned to it by *section 41*;

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

“Principal” means a person appointed under *section 47*;

“recognised school” means a school recognised in accordance with *section 35*;

20

“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;

25

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

“reserved function” shall be construed in accordance with *section 10*;

“school” means —

30

(a) a school which provides primary education to its students,
or

(b) a school which provides post-primary education to its students up to and including the Leaving Certificate Examination of the Department of Education and which may also provide courses in adult, continuing or vocational education and training;

35

“school week” has the meaning assigned to it by *section 53*;

“school year” has the meaning assigned to it by *section 53*;

“student”, in relation to a school, means a person enrolled at the school;

40

“support services” means the services which an education board provides to students or their parents, recognised schools or centres for education in its education region in accordance with *section 9 (2) (b)* and shall include the following;

45

- (a) assessment of students;
- (b) psychological services;
- (c) technical aid and equipment for students with special needs and their families;
- (d) provision for primary or post-primary education to students with special needs otherwise than in schools or centres for education; 5
- (e) management services;
- (f) industrial relations services;
- (g) legal services; 10
- (h) teacher welfare services;
- (i) curriculum support and staff advisory services;
- (j) library and media services;
- (k) school maintenance services, and
- (l) such other services as are specified by this Act or considered appropriate by the board or the Minister; 15

“teacher” includes a Principal;

“Údarás na Gaeltachta” means the body established by the Údarás na Gaeltachta Act, 1979;

“vocational education committee” means a committee established by section 7 of the Vocational Education Act, 1930. 20

(2) (a) In this Act a reference to a section or a Schedule is a reference to a section of or a Schedule to this Act, unless it is indicated that a reference to some other Act is intended. 25

(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. 30

(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.

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 moneys provided by the Oireachtas. 35

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 him or her and shall be served on or given to him or her in one of the following ways— 40

(a) where it is addressed to him or her by name, by delivering it to him or her, or

(b) by leaving it at the address at which he or she 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 him or her at the address at which he or she ordinarily resides, or in a case in which an address for service has been furnished, at that address.

10 5.—(1) Every regulation made under *section 57* of 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 is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything done thereunder.

Laying of regulations and orders.

(2) Where the Minister fails to reach agreement under *section 43 (2)* on the composition of a board and proposes to make an order under that subsection a draft of that order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft order has been passed by each such House.

PART II

Education Boards

25 6.—Each of the areas mentioned in *column (2)* of the *First Schedule* at any reference number shall be established as an education region for the purposes of this Act.

Establishment of education regions.

7.—(1) There shall stand established in respect of each education region mentioned in *column (2)* of the *First Schedule* at any reference number, an education board with the name, in the English language or in the Irish language, mentioned in *column (1)* of the said Schedule at that reference number.

Establishment of education boards.

(2) The provisions of the *Second Schedule* shall have effect with respect to each education board.

35 (3) An education board established under this Act 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 to acquire, hold and dispose of land or any other property.

40 (4) The Minister shall, within five years after the commencement of this Part, appoint, subject to such terms and conditions as the Minister shall determine, a body of persons to review the operation and effectiveness of education boards and to report to the Minister.

45 8.—(1) Subject to *subsections (2), (3) and (5)*, the Minister shall by order specify the number of persons to serve on an education board and may vary the numbers of the board from one education board to another.

Number of persons serving on each education board.

(2) The Minister shall appoint persons to be members of an education board from each of the following classes, namely persons—

(a) (i) who are nominated to the Minister by the patrons of recognised schools established in the education region, one of whom shall be a person nominated to the patrons by recognised school management organisations, 5

(ii) who are nominated to the Minister by any national association of parents,

(iii) at least one of whom shall be a Principal, who are employed by schools situated in the education region, and who are nominated to the Minister by a recognised trade union and staff associations representing teachers as the Minister considers appropriate, 10 15

(iv) who are nominated by each of the local authorities mentioned in *column (2)* of the *First Schedule*, whose functional areas are included in the education region of the education board and at least one nominee of each local authority shall be appointed, 20

(v) who are nominated in accordance with *subsection (3)*,

and

(b) such other persons as the Minister shall appoint and in making such appointments the Minister shall have regard to the level of representation on the education board of all relevant interests, in particular the interests of people who belong to minority religions. 25

(3) An education board as constituted under *subsection (2)* other than *subsection (2) (a) (v)* shall nominate to the Minister for appointment to the education board such other persons as it considers appropriate having regard to the education needs of the education region and the desirability of including in its membership persons who are representative of students and of adult and continuing education or who belong to groups that are minorities in the community or who are disadvantaged. 30 35

(4) Nominations made pursuant to *subsections (2)* and *(3)* shall be made in accordance with regulations made from time to time by the Minister and the regulations may provide for methods of selecting or electing nominees as the Minister may determine from time to time. 40

(5) The persons appointed pursuant to the provisions of each of the *subparagraphs (i) to (v)* of *paragraph (a)* and *paragraph (b)* of *subsection (2)* and *subsection (3)*, shall be the same in number.

(6) In making appointments to an education board the Minister shall ensure an appropriate gender balance, as determined by the Minister from time to time, among the membership thereof. 45

(7) In order to achieve the gender balance required by *subsection (6)*, the Minister may require any or all of the persons or bodies who make nominations pursuant to *subsections (2)* and *(3)* to make nominations which accord with that balance. 50

(8) In the case of an education board, the education region of which includes a Gaeltacht area or part of such an area, the members appointed pursuant to *subsection (3)* shall include one person nominated by Údarás na Gaeltachta.

5 **9.—(1)** The objects of an education board, as regards the education region for which it is concerned, shall be: Objects of
education board.

10 (a) to ensure that there is made available to each person living within that region an appropriate level and quality of education, other than university or other third level education, to meet the needs of that person;

(b) to promote equality of access to, and participation in, education;

15 (c) 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;

20 (d) to promote effective liaison and consultation between schools and centres for education, patrons, teachers, parents, students, the community in the education region concerned, local authorities, health boards and the Minister;

(e) to contribute to the realisation of national educational policies and objectives;

25 (f) to contribute to the realisation of national policy and objectives in relation to the extension of bi-lingualism in Irish society;

(g) to enhance the accountability of the education system by publishing reports and disseminating information about its activities and promoting discussions in the region for which it has responsibility on educational issues;

30 (h) to contribute to transparency in decision making by being as open as is practicable in the conduct of its business, and

(i) to participate in national planning and evaluation of education as requested by the Minister.

35 (2) Without prejudice to the generality of *subsection (1)*, it shall be a function of an education board within the resources available to it in respect of its region:

(a) to plan and co-ordinate —

40 (i) the provision of primary and post-primary education in its region, including in so far as is practicable, education through Irish,

(ii) support services, and

45 (iii) the provision by schools and centres for education of adult or continuing education or vocational education or training;

(b) 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 with special educational needs, and their parents, as the education board considers appropriate and in accordance with this Act;
- (c) to determine, in accordance with *section 22*, the annual operational programme of the education board; 5
 - (d) to monitor and assess the economy, efficiency and effectiveness of the services provided by, and the operations of, the education board and report to the Minister in accordance with *section 32*; 10
 - (e) to adopt an education plan;
 - (f) to maintain, manage, administer and invest all the money and assets of the education board;
 - (g) subject to the approval of the Minister, to acquire land or buildings and to lease land or buildings to any person or body of persons for the purpose of establishing a school; 15
 - (h) 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 the provisions of this Act; 20
 - (i) to ensure that the education board has in its employment an adequate number of staff to enable the education board to provide its services through Irish and English;
 - (j) to perform such other functions as are specifically provided for by this Act or which are otherwise provided for by law; 25
 - (k) to do all such acts and things as may be necessary to further the objects of the education board.
- (3) An education board shall have all such powers as are necessary or expedient for the purpose of performing its functions. 30
- (4) In carrying out its functions, an education board shall—
- (a) have regard to—
 - (i) the resources available to the education board,
 - (ii) the provision for education and training made by other agencies with funds provided by the Oireachtas, including Údarás na Gaeltachta in the case of an education board the education region of which includes a Gaeltacht area or part of such an area, and shall co-operate with such agencies and coordinate its activities with the activities of such agencies to the greatest extent practicable, 35 40
 - (iii) policies as may be determined by the Minister from time to time,
 - (iv) the need to reflect in its activities the diversity of educational services provided in its education region and nationally, and 45

(v) the right of schools to manage their own affairs in accordance with this Act,

(b) subject to the resources available to the education board, provide support services through Irish to recognised schools which provide teaching through Irish,

and

(c) make all reasonable efforts to consult with parents, students, boards of management and any other persons affected by its decisions or who have an interest in its decisions.

10 **10.**—An education board shall have the functions conferred on it by this Act and every function that is required to be performed by an education board shall be a reserved function and “reserved function” shall be construed and have effect accordingly. Reserved functions of an education board.

15 **11.**—(1) Where the Minister, having considered the report of a person appointed pursuant to *section 30*, is satisfied that an education board— Removal of functions.

(a) has failed to perform or is failing to perform its functions in an effective manner, or

(b) impedes or unreasonably fails to assist or co-operate with the Director in the performance of his or her functions,

20 the Minister may by order remove any function of the education board from that board as the Minister may specify and transfer it to the Director or to such other person as the Minister may specify in the order for such period as the Minister shall, on the making of such order, determine, provided that in no case shall a function be removed from an education board for a continuous period exceeding two years.

25 (2) Where the Minister proposes to make an order under this section he or she shall inform the Director and the education board, by notice in writing, that he or she is considering making an order and the reasons therefor and either or both the Director and the education board may within the period of the next fourteen days beginning on the date on which the notice is given, or such longer period as the Minister may determine, make representations in writing to the Minister.

35 (3) If, after considering any representations made under *subsection (2)*, the Minister is of the opinion that an order pursuant to *subsection (1)* should be made, the Minister shall so make the order and shall, by notice in writing, inform the Director and the education board of the making thereof and the reasons therefor.

45 (4) Where a function of an education board stands transferred under this section, the education board shall not perform, or supervise, direct or control the exercise of the function but shall be kept informed of matters arising from the exercise of that function by the person to whom the function stands transferred.

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

Dissolution of board.

12.—(1) Where —

- (a) the Minister, having considered the report of a person appointed pursuant to *section 30*, is satisfied that the functions of an education board are not being effectively discharged, or 5
- (b) an education board wilfully neglects to comply with any order, direction or regulation of the Minister made or given under this Act, or
- (c) an education board fails to comply with any judgement or order of any court of competent jurisdiction, 10

the Minister may by order dissolve the education board.

(2) Where the Minister proposes to make an order under this section he or she shall inform the Director and the education board, by notice in writing, that he or she is considering making an order and the reasons therefor and either or both the Director and the education board may within the period of the next fourteen days beginning on the date on which the notice is given, or such longer period as the Minister may determine, make representations in writing to the Minister. 15

(3) If, after considering any representations made under *subsection (2)*, the Minister is of the opinion that an order pursuant to *subsection (1)* should be made, the Minister shall so make the order and shall, by notice in writing, inform the Director and the education board of the making thereof and the reasons therefor. 20

(4) Whenever the Minister makes an order dissolving an education board, the Minister may appoint any person or body of persons as the Minister thinks fit to perform the functions of the education board. 25

(5) The remuneration, if any, of every person appointed under *subsection (4)* shall be paid out of moneys provided by the Oireachtas under *section 31*. 30

(6) The Minister shall by order provide for the re-establishment of an education board dissolved under *subsection (1)* and for the appointment of members thereto in accordance with *section 8* not later than two years following the dissolution and when the new education board has been appointed the functions of the dissolved education board shall be revested in the new education board and shall cease to be functions of the body of persons appointed under *subsection (4)*. 35

(7) The Minister may by order amend or revoke an order under this section including an order under this subsection. 40

The Director.

13.—(1) Subject to *section 15*, an education board shall, from time to time appoint in a whole-time capacity a chief executive officer (who shall be known and in this Act is referred to as the “Director”) who shall have the functions set out in the *Fourth Schedule*. 45

(2) In appointing a person as a Director, an education board shall have regard to the desirability that the person so appointed is competent to communicate in Irish and English and in the case of an education board the education region of which includes a Gaeltacht

area or part of such an area, the education board shall appoint only a person who is competent to communicate in Irish and English.

5 (3) The Minister or an education board may at any time and for stated reasons suspend a Director from his or her duties and the
Minister or the education board with the consent of the Minister may
remove the Director from office where the Minister or the education
board, as the case may be, is satisfied that the Director has become
incapable of performing the duties of Director, that he or she is unfit
to be Director or that he or she has misconducted himself or herself
10 as Director.

(4) For the purposes of section 19 of the Comptroller and Auditor General (Amendment) Act, 1993, the expression “accounting officer” shall include a Director of an education board.

15 **14.—**(1) Subject to the provisions of this section, an education board shall appoint persons to be employees of the education board, subject to the approval of the Minister and the Minister for Finance as to the numbers and classes of such persons. Provisions relating to staff.

20 (2) The qualifications for appointment as an employee, or for continuing as an employee, of an education board, and any procedures for the selection of employees, shall be those approved of or those directed by the Minister and, in the case of a post to be filled by selection by the Local Appointments Commissioners, after consultation with those Commissioners.

25 (3) An employee of an education board shall hold his or her employment on such terms and conditions as the education board, subject to the approval of the Minister with the concurrence of the Minister for Finance, from time to time determines.

30 (4) An employee of an education board shall perform such duties as the Director from time to time determines and shall be subject to the control and direction of the Director in relation to those duties.

(5) There shall be paid by an education board to its employees such remuneration and allowances as the education board, subject to the approval of the Minister with the concurrence of the Minister for Finance, may from time to time determine.

35 (6) The Director may at any time and for stated reasons, following consultation with the chairperson of an education board or in his or her absence the deputy chairperson of the education board, suspend or remove any member of the staff of that education board from being a member of staff.

40 **15.—**(1) The Local Authorities (Officers and Employees) Acts, 1926 to 1983, shall apply to appointments of Directors and of such other employees of education boards as the Minister, with the consent of the Local Appointments Commissioners, may from time to time determine as if the education boards were local authorities, but
45 subject to any modifications which the Minister may specify by order made with the consent of the Commissioners, provided that no such order shall be made which provides for the selection of a Director otherwise than by the Commissioners. Application of Local Authorities (Officers and Employees) Acts, 1926 to 1983.

50 (2) References to the appropriate Minister in section 30 of the Local Government Act, 1955, shall, in relation to appointments to education boards, be construed as references to the Minister.

Membership of
Houses of
Oireachtas or
European
Parliament.

16.—(1) Where a person who is an employee of an education board —

- (a) accepts nomination as a member of Seanad Éireann,
- (b) is nominated as a candidate for election to either House of the Oireachtas or to the European Parliament, or 5
- (c) is regarded pursuant to section 15 (inserted by the European Parliament Elections Act, 1993) of the European Assembly Elections Act, 1977, as having been elected to the European Parliament to fill a vacancy,

he or she shall thereupon stand seconded from employment by the education board and shall not be paid by, or be entitled to receive from, that education board any remuneration or allowances in respect of the period commencing on such acceptance, nomination or election, as the case may be, and ending when he or she fails to be elected to, withdraws his or her candidature for, or ceases to be a member of, either such House or such Parliament. 10
15

(2) 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 European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming an employee of an education board. 20

(3) Without prejudice to the generality of *subsection (1)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the education board for the purposes of any superannuation benefits. 25

Membership of
local authority.

17.—(1) Where a person who is an employee of an education board becomes a member of a local authority, he or she shall be released on special leave and shall not be paid by, or be entitled to receive from, the education board any remuneration or allowances in respect of the period of his or her membership of the local authority. 30

(2) A person who is for the time being a member of a local authority or an education board shall be disqualified from becoming an employee of an education board.

(3) A person who is for the time being an employee of an education board shall be disqualified from becoming a member of an education board. 35

(4) The Minister may by order designate a class, description or grade of employment to which the provisions of *subsection (1)* or *(2)* shall not apply while such order is in force.

(5) Without prejudice to the generality of *subsection (1)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the education board for the purposes of any superannuation benefits. 40

(6) In this section “local authority” has the meaning assigned to it by the Local Government Act, 1941. 45

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

18.—(1) The Minister may, from time to time, designate for
employment by an education board, employees of the Minister, or
of a vocational education committee after consultation with the chief
executive officer of that committee and the Director of the education
board, and that education board shall accept the person or persons
so designated into its employment on such date as the Minister, after
consultation with the Director, shall specify.

(2) The Minister shall not designate an employee under *subsection (1)* without having notified in writing the employee and any recognised trade unions or staff associations concerned of his or her intention to do so and considered any representations made by him or her, or by them or by any of them, in relation to the matter within such time as may be specified in the notification.

(3) The terms and conditions relating to tenure which are granted by an education board in relation to a person accepted into its employment under this section shall not, while the person is in the employment of the education board, be less favourable to him or her than those prevailing immediately before his or her acceptance into that employment save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned and if a dispute arises between the education board and any such person as to terms and conditions prevailing immediately before his or her acceptance into the employment of that education board, the matter shall be determined by the Minister after consultation with the Minister for Finance.

(4) Save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a person referred to in *subsection (1)* shall not, while in the employment of an education board, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (other than those relating to tenure) than the scale of pay to which he or she was entitled and the terms and conditions of service (other than those relating to tenure) to which he or she was subject immediately before the day on which he or she was so accepted.

(5) Until such time as the scale of pay and the terms and conditions of service (other than those relating to tenure) of a person referred to in *subsection (1)* are varied by an education board, following consultation with any recognised trade unions and staff associations concerned, the scales of pay to which such a person was entitled and the terms and conditions of service (other than those relating to tenure), restrictions, requirements and obligations to which the person was subject immediately before such acceptance shall continue to apply and may be applied or imposed by an education board, while the person is in the employment of an education board and no such variation shall operate to worsen the scale of pay or the terms or conditions of service aforesaid applicable to an employee immediately before he or she was accepted into the employment of an education board, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

(6) Previous service of any person in the civil service or with a vocational education committee from which he or she was accepted into the employment of an education board under *subsection (1)* shall be reckonable for the purposes of, but subject to any other exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1991, the Holidays (Employees) Acts, 1973 and 1991, the Minimum Notice and Terms of Employment Acts, 1973 to 1991, and the Unfair Dismissals Acts, 1977 to 1993.

Superannuation.

19.—(1) An education board shall determine the terms and conditions of any superannuation scheme for its employees in accordance with the provisions of the *Third Schedule* and those provisions shall apply to an amendment to an existing scheme in the same way as they apply to a new scheme. 5

(2) A scheme or schemes under *subsection (1)* shall, as respects a person accepted into wholetime employment of an education board under *section 18*, provide for the granting to, or in respect of, him or her of superannuation benefits upon and subject to terms and conditions that are not less favourable to him or her than the terms and conditions applied to him or her immediately before the day on which he or she was so accepted into the employment of the education board in relation to the grant of such benefits. 10

(3) Where, during the period between the establishment of an education board and the coming into operation of a scheme under this section, superannuation benefits would have been granted to, or in respect of, a person accepted into wholetime employment of the education board under *section 18*, in respect of his or her employment in the civil service or a vocational education committee, the superannuation benefits shall be granted and paid to or in respect of the person by the education board and, for that purpose, his or her pensionable service with that education board shall be aggregated with his or her previous pensionable service. 15 20

Co-operation between education boards.

20.—(1) Any two or more education boards may, subject to such directions as may be given from time to time by the Minister, enter into any arrangement for the joint exercise of any of their functions on such terms and conditions as may be agreed between them and if any disagreement arises between such education boards in relation to any such arrangement the matter in question shall be referred to the Minister whose decision thereon shall be final. 25 30

(2) Without prejudice to the generality of *subsection (1)*, directions may provide for the manner in which expenses incurred in carrying out the joint exercise of functions are to be met.

(3) An education board shall make all reasonable efforts to co-ordinate its activities where appropriate with health boards and other agencies providing public services in the education region. 35

(4) The entering into an arrangement by an education board shall be a reserved function.

Determination by Minister of net expenditure limits for an education board.

21.—(1) Subject to *subsection (2)*, the Minister shall, in respect of a financial year of an education board, determine the maximum amount of net expenditure that may be incurred by the board for that financial year and shall notify the board in writing of the amount so determined not more than 21 days after the publication by the Government of the Estimates for Supply Services for that financial year. 40 45

(2) A determination to which this section relates may, if the Minister considers it appropriate that it should do so in any particular case, relate to such period (other than the financial year of the education board concerned) as may be specified in the relevant notification under this section. 50

5 (3) The Minister may amend a determination under *subsection (1)* by varying the maximum amount of net expenditure that an education board may incur for a particular financial year or such other period as the Minister may determine and, if the Minister so varies that amount, he or she shall notify the education board concerned in writing of the extent of the amendment as soon as may be and the determination shall apply and have effect as so amended.

22.—(1) Subject to *section 23(1)(a)*, an education board shall, within—

Adoption of an operational programme by education board.

10 (a) 42 days, or

(b) such shorter period, not being less than 21 days, as the Minister may direct in any particular case,

of the receipt by the board of a determination, adopt and submit to the Minister an operational programme.

15 (2) An operational programme shall be prepared in such form and shall contain such information as may be specified by the Minister from time to time and, without prejudice to the generality of the foregoing, shall—

20 (a) include a statement of the services to be provided by the education board and estimates of the income and expenditure of the board for the period to which the programme relates, and

(b) be consistent with the financial limits determined by the Minister under *section 21*.

25 (3) If an operational programme is not submitted by an education board in accordance with *subsection (1)*, the Minister may direct the board to submit an operational programme to him or her within such period not exceeding 10 days from the receipt of the direction, as may be specified therein.

30 (4) Where an education board fails to submit an operational programme to the Minister in accordance with the provisions of *subsection (1)*, or pursuant to a direction under *subsection (3)*, the Minister may do all or any of the following—

35 (a) direct the Director to prepare and submit an operational programme to him or her within 10 days of the receipt of the direction and the Director shall comply with any such direction,

(b) draw up an operational programme for the education board,

40 (c) remove any or all of the functions of the education board in accordance with the provisions of *section 11*,

(d) dissolve the education board in accordance with the provisions of *section 12*.

(5) An operational programme —

(a) submitted by the Director under *subsection (4)(a)*, or

45 (b) drawn up by the Minister under *subsection (4)(b)*,

shall be deemed to have been adopted and submitted by the relevant education board.

(6) Where in the opinion of the Minister the operational programme of an education board—

- (a) does not contain such information as is specified under *subsection (2)*, 5
- (b) proposes net expenditure which exceeds the net expenditure as determined by the Minister, or
- (c) is not in accordance with the policies and objectives of the Minister or of the Government in so far as they relate to the functions of the board, 10

the Minister may, not later than 21 days after the receipt by him or her of the operational programme, direct the education board or, in the case of an operational programme submitted in accordance with *subsection (4)(a)*, the Director, to make modifications to the operational programme and the board or the Director, as the case may be, shall comply with any such direction. 15

(7) Subject to *subsection (5)*, the adoption of an operational programme under this section shall be a reserved function.

Supervision and amendment of operational programme.

23.—(1) The Minister may, after the amendment by him or her of a determination under *section 21 (3)*, either— 20

- (a) direct that the operational programme of the education board concerned shall stand amended in such manner as the Minister may specify in the direction, or
- (b) direct the education board concerned to submit an amended operational programme in accordance with the amended determination and the education board shall comply with such a direction. 25

(2) Where the Minister directs an education board to submit an amended operational programme in accordance with *subsection (1)(b)*, *section 22* shall apply to such programme with the necessary modifications. 30

(3) An education board shall supervise the implementation of its operational programme in order to ensure that the net expenditure for the financial year concerned does not exceed the net expenditure determined by the Minister for that year. 35

(4) An education board may amend an operational programme and, in so doing, it shall ensure that the net expenditure for the financial year concerned does not exceed the net expenditure determined by the Minister for that year. 40

(5) A copy of an amended operational programme shall be furnished to the Minister by the education board as soon as may be and *section 22* shall apply to such programme with the necessary modifications.

(6) Subject to this section and *section 22*, the supervision of the implementation of and the amendment of an operational programme shall be reserved functions. 45

24.—(1) Whenever the Minister makes a determination, he or she shall specify the amount of the indebtedness that the education board concerned may incur and shall notify the board in writing of that amount.

Amount of indebtedness of education board.

5 (2) An education board shall so conduct its affairs that its indebtedness does not exceed the amount for the time being specified by the Minister.

(3) The function of the education board set out in *subsection (2)* shall be a reserved function.

10 25.—(1) The Director shall implement the operational programme, or amended operational programme, on behalf of the education board so that—

Functions of Director in respect of operational programme and budget.

15 (a) the amount of net expenditure of the board for the financial year does not exceed the amount of net expenditure determined by the Minister, and

(b) the indebtedness of the board does not exceed the amount specified by the Minister under *section 24 (1)*.

20 (2) If the Director is of the opinion that a decision of the education board may, or a proposed decision of the board would, if made—

(a) result in net expenditure by the board for a financial year in excess of the amount determined by the Minister, or

(b) result in the indebtedness of the board exceeding the amount specified by the Minister under *section 24 (1)*,

25 he or she shall, as soon as may be, inform the Minister and the board of that opinion.

30 26.—If the amount of net expenditure incurred by an education board in a financial year is either greater or less than the amount determined by the Minister for that year, the education board shall charge the amount of such excess or credit the amount of such surplus in its income and expenditure account for the next financial year.

Expenditure of education board.

35 27.—(1) An education board shall as soon as may be after it is appointed and at such intervals as may be specified by the Minister require a Director to prepare a plan (in this section referred to as an “education plan”).

Education plan.

(2) An education plan drawn up under this section shall—

40 (a) have regard to the resources that are likely to be available to the education board during the period to which the plan relates,

45 (b) be prepared in accordance with such directions as may be given from time to time by the Minister, including directions relating to the curriculum and consultation with other persons or bodies likely to be affected by or who have an interest in that plan,

(c) set out the objectives to be achieved by the education board in the three years following the preparation of the plan, or in such other period as may be specified by the Minister, the priorities accorded to those objectives and the means by which those objectives are to be met by that education board, and 5

(d) be available in both the English and Irish languages.

(3) The education board shall, in accordance with such directions as may be given by the Minister, consult with the parents, patrons, students, teachers and other persons or bodies likely to be affected by the plan or who have an interest in the plan in the education region concerned, on the plan as prepared by the Director. 10

(4) The education board may, having regard to the consultation as provided by *subsection (3)*, either approve of an education plan without modification or following appropriate consultation with the Director approve of the education plan submitted under this section with such modifications as it thinks fit to make. 15

(5) As soon as may be after an education board has approved of an education plan, the education board shall submit the plan to the Minister. 20

(6) An education board shall ensure that—

(a) a copy of the education plan is given to each school in its education region,

(b) a copy is made available at the main office of the education board for inspection by any person who wishes to inspect it, 25

(c) access to the plan for the purpose of inspecting it is given to such person or persons during normal office hours,

(d) a reasonable number of copies of the plan are deposited in each public library in the education region, and 30

(e) copies of the plan are available for sale to the public at a reasonable charge.

(7) The Director of an education board shall review the education plan annually and shall make a report on the plan to the education board which may amend the plan on the basis of that report. 35

(8) An education board shall provide the Minister with a copy of the report made by the Director under *subsection (7)* as soon as practicable after it has considered it together with a copy of any amendments to the education plan arising from it.

Committees.

28.—(1) An education board, subject to the directions of the Minister relating to the number of committees and the number of members of such committees, may— 40

(a) establish committees, consisting either wholly or partly of persons who are members of the education board, to assist it in the performance of its functions; 45

(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

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

(2) An education board shall —

10 (a) establish a committee to advise the education board on co-ordination between the board and any body, other than a school or centre for education, in the education region which provides education or training from funds provided by the Oireachtas and the Minister for Enterprise and Employment shall nominate up to half of the membership of such a committee or shall determine how up to half of the membership is to be chosen,

15 (b) establish a committee to advise the education board on the promotion and the teaching of the Irish language and on the development and co-ordination of the provision of teaching through the medium of Irish and Eagraíochta na Scoileanna Gaeltachta (being a body incorporated under the Companies Acts, 1963 to 1990) or such other body or bodies of persons as may be determined from time to time by the Minister for Arts, Culture and the Gaeltacht shall nominate up to half of the membership of the committee or shall determine how up to half of the membership is to be chosen, and

20 (c) appoint a person to act as chairperson of a committee under this section and a person to act in the absence of the person so appointed.

25 (3) Each member of a committee appointed under this section shall be paid, out of moneys at the disposal of an education board, such allowances for expenses as the education board determines with the concurrence of the Minister.

30 (4) A committee appointed under this section may regulate, by standing orders or otherwise, its procedure or business.

(5) The acts of a committee established under this section shall be subject to confirmation by the education board which established it, unless that education board determines otherwise.

35 (6) The term of office of a committee established under *subsection* (1) shall not exceed three years.

40 **29.**—(1) An education board 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 moneys 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. Keeping of accounts and records.

50 (2) Accounts kept in pursuance of this section shall be submitted annually by an education board 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 education board to the Minister.

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

Report on
operation of
education board.

30.—(1) Where the Minister is of the opinion that the functions of an education board are not being effectively discharged he or she may inform the Director of that opinion and the reasons therefor.

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(2) Having considered any representations made to the Minister by the Director or the education board, the Minister may authorise any person or persons as he or she may deem appropriate to report to him or her on any matter arising from or relating to the operation of that education board.

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(3) Any person appointed to prepare a report under this section shall be entitled at all reasonable times to enter any premises occupied by an education board and shall be afforded every facility and co-operation by the education board and its employees, including access to all records, to perform their functions.

20

Grants.

31.—In each financial year the Minister, with the concurrence of the Minister for Finance, out of moneys provided by the Oireachtas, may make to each education board a grant or grants of an amount equal to a determination or amended determination made by the Minister in accordance with *section 21* to be spent for the purposes of each education board.

25

Report of education
boards.

32.—(1) As soon as may be after the end of each school year, each education board shall prepare and submit to the Minister, in such form as may be determined by the Minister, a report on the performance of the education board in that year, with particular reference to the objectives set out in the education plan provided for under *section 27* and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

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(2) An education board shall ensure that—

(a) a copy of the report provided for in *subsection (1)* is given to each school and centre for education in its education region,

(b) copies of the report are available for sale to the public at a reasonable charge, and

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(c) a reasonable number of copies of the report are deposited in each public library in its education region,

and the report shall be available in both the English and the Irish languages.

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Information to be
provided to
Minister.

33.—An education board shall provide the Minister with such information regarding the performance of its functions as the Minister may from time to time require.

34.—The Ombudsman Act, 1980, is hereby amended by the insertion in Part 1 of the First Schedule of that Act of the following reference: Application of
Ombudsman Act,
1980.

“An education board established by the *Education Act, 1997*.”.

5

PART III

Schools

35.—(1) On a request being made for that purpose by the patron of a school or a proposed school and subject to *subsection (2)* and any directions of the Minister, an education board may from time to time designate a school or a proposed school to be a recognised school for the purposes of this Act. Recognition of
schools.

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

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(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 and meriting funding by the State,

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(b) in the case of a proposed school, and having regard to the desirability of diversity in the classes of school operating in the region, the needs of students attending or likely to attend the school cannot reasonably be met by existing schools either within the education region or, having regard to the provisions of *section 20*, outside that region,

25

(c) the patron undertakes that the school will provide the core curriculum,

(d) the patron agrees to permit and co-operate with regular inspection and evaluation by the education board and the Inspectorate,

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(e) the school complies, or in the case of a proposed school will comply, with health, safety and building standards as determined from time to time by the education board,

35

(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 57* and with the provisions of this Act and with any other terms and conditions as may reasonably be attached to recognition by the education board.

(3) A patron may appeal to the Minister against a refusal by an education board to recognise a school or a proposed school and the Minister may uphold the decision of the education board or may designate the school or the proposed school to be a recognised school for the purposes of this Act.

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(4) A school that, on the date of coming into effect of this section, is in receipt of funds provided by the Oireachtas in respect of—

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

(b) the remuneration of teachers in that school,

shall be deemed to be a recognised school.

Withdrawal of recognition of schools.

36.—(1) Where an education board or the Minister is satisfied that the requirements for recognition of a school are not being met with by that school or that the functions of a school are not being effectively discharged and the education board or the Minister is of the opinion that recognition should be withdrawn from that school, the education board or the Minister, as the case may be, shall inform the board of management, the patron, teachers and the parents of students of that school by notice in writing of that opinion and the reasons for the opinion. 5

(2) If, after the expiration of three months from the date of the notice, and, after consideration of any representations made to the education board or the Minister by the board of management or the patron of the school or the parents, the education board or the Minister remains of the said opinion, the education board or the Minister may withdraw recognition from the school by notice in writing addressed to the board of management 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. 10 15

(3) The board of management or the patron of a school from which an education board has withdrawn recognition may appeal that decision to the Minister within 14 days of the date of the notice withdrawing recognition and no such decision shall take effect until the Minister has determined that appeal. 20

(4) It shall be the duty of an education board in respect of a school from which recognition has been withdrawn to arrange for the provision of alternative and appropriate education facilities for those students who were enrolled in the school on the date of such withdrawal and who require those facilities. 25

(5) Where the education board is satisfied that a school from which recognition has been withdrawn satisfies the requirements for recognition of a school as provided for in *section 35*, and that the functions of the school will be effectively discharged, the education board may, with the consent of the Minister, restore recognition to that school, provided that such restoration of recognition shall not, unless the education board, with the consent of the Minister, so decides, entitle that school or any person employed in the school to receive any payment out of moneys provided by the Oireachtas in relation to the period subsequent to the withdrawal of recognition and prior to the restoration of recognition. 30 35 40

(6) An education board shall not withdraw recognition from a school to which *section 35 (4)* relates on the grounds only that there does not stand appointed, in respect of that school, a board of management constituted in accordance with this Act.

Annual school funding.

37.—(1) The Minister, with the concurrence of the Minister for Finance, shall determine in each school year criteria by which any class or classes of recognised schools are to be funded in the following school year from moneys provided to the education board by the Minister. 45

(2) Except as otherwise provided by this Act, an education board shall, in each school year by such date as shall be determined by the Minister, make to each recognised school in its education region a grant or grants, which accords with the criteria determined pursuant 50

to this section, from moneys provided by the Oireachtas in accordance with the provisions of this Act, for the purposes of carrying on that school.

5 (3) The grants payable to schools under this section shall be a first charge on the expenditure of an education board in each school year.

(4) 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.

10 (5) In the case of schools established and maintained by a vocational education committee, which are located in the education region of an education board, that education board shall not make any grants to such schools, but shall make grants to the vocational education committee of an amount equal to the grants which but for this section would have been made to those schools.

15 (6) A vocational education committee shall make to each school established and maintained by that committee, a grant or grants, from the moneys provided pursuant to *subsection (5)*, for the purposes of carrying on that school, in accordance with the criteria determined under *subsection (1)*.

20 (7) Where—

(a) the patron of a recognised school has not appointed a board of management as provided for by *section 43*, or

(b) a school has ceased, otherwise than in accordance with *section 45* or *46*, to have a board of management,

25 then, with effect from the end of the school year in which *section 43* has been commenced or in which a school has ceased to have a board of management and until a board of management is appointed in accordance with *section 43*—

30 (i) the grant or grants payable to that school pursuant to the provisions of this Act shall not exceed an amount per pupil which is equal to the amount per pupil which was payable to that school from moneys provided by the Oireachtas on the date of the commencement of this section, and

35 (ii) the number of teachers employed in the school and paid from moneys provided by the Oireachtas shall not exceed the number so employed on the date of the commencement of this section or, in the case of a school which has ceased to have a board of management, on the date when that occurs.

45 **38.**—(1) Except as otherwise provided in this Act, where, at 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.

Funding of schools
by Minister.

50 (2) Where *subsection (1)* applies, the Minister shall, from moneys 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 section, would have been made to the

schools under *section 37* and any such grant or grants shall be applied by that body for the benefit of students enrolled in those schools.

(3) *Section 29* shall apply to the body referred to in *subsection (1)* or its successor in the same way as it applies in the case of an education board.

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PART IV

The Inspectorate

The Inspectorate.

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

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(2) The Minister may second such and so many of the Inspectors appointed under this section to education boards, subject to such terms and conditions as the Minister shall determine, and an Inspector who has been so seconded shall perform any or all of his or her functions subject to the control and direction of the Director who shall ensure that, within the resources available, the functions of the Inspectorate are carried out in an effective and efficient manner in the education region.

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(3) The Minister shall not second an Inspector under *subsection (2)* without having notified in writing the Inspector and any recognised trade unions or staff associations concerned of his or her intention to do so and considering representations made by him or her, or by them or any of them in relation to the matter within such time as may be specified in the notification.

25

(4) The Minister or the education board, with the concurrence of the Minister and subject to the conditions determined by the Minister, may second a teacher to the Inspectorate to carry out any or all of the functions conferred on an Inspector by *subsection (6)*.

(5) Where the Minister is satisfied that it is appropriate to do so, he or she may resume control and direction of any Inspector who has been seconded to an education board, either generally or in respect of the carrying out of a particular function, for such period as he or she shall determine.

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(6) The functions of an Inspector seconded to an education board shall be to —

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(a) advise the education board on any matter relating to the provision of education in the education region of that education board,

(b) advise recognised schools on any education matters,

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(c) visit recognised schools and centres for education, as directed by the Director, and do any or all of the following, namely:

(i) evaluate the management of such schools and the quality and effectiveness of the education provided in such schools or centres, including the quality of teaching and effectiveness of individual teachers;

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

(iii) assess the implementation of regulations made by the Minister, and

5 (iv) report to the Director on these or on any other matter relating to the activities of such schools or centres and the needs of students attending such schools or centres,

10 (d) conduct assessments of the educational and psychological needs of students in recognised schools and advise those students, their parents and the schools as appropriate in relation to the educational and psychological development of such students,

15 (e) advise teachers and boards of management in respect of the performance of their duties, and, in particular, assist teachers in employing improved methods of teaching and conducting classes, and

(f) advise parents' associations.

20 (7) An Inspector, other than an Inspector who has been seconded to an education board, in addition to performing all or any of the functions referred to in *subsection (6)* which he or she shall perform under the control and direction of the Minister, shall have the following additional functions—

25 (a) the evaluation of the quality and effectiveness of the provision of education in each education region and nationally, including comparison with relevant international practice and standards, and reporting to the Minister,

30 (b) the conduct of research into education to provide support in the formulation of policy by the Minister,

(c) the giving of advice to the Minister on any matter relating to education policy and provision, including the curriculum taught in schools, assessment and teaching methods, and

35 (d) the monitoring and the evaluation of the content and standards of school examinations which are conducted nationally and reporting to the Minister on the outcome of those examinations.

40 (8) 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 of management and the staff of a school or centre for education.

45 (9) An Inspector, including the Chief Inspector and an Inspector seconded to an education board, 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 and such directions as may be given by the Minister from time to time.

50 (10) A teacher or the board of management 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.

(11) This section shall apply to any person who before the commencement of this section held an office as Chief Inspector or Inspector in the Department of Education. 5

(12) The Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 and 1958, shall apply to Inspectors (including the Chief Inspector) appointed under this section.

PART V

Boards of Management 10

Definitions.

40.—In this Part and in Part VI—

“board” means a board of management established under *section 43*;

“education board” in relation to a school means the education board in whose education region that school is situated;

“school” means a recognised school. 15

Patron of school.

41.—(1) For the purposes of this Act, the patron of a school shall be the person who stands registered as the patron in a register kept for that purpose by the Minister.

(2) (a) The person who, at the commencement of this section, is recognised by the Minister as the patron of a primary school, and 20

(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 board, the owner of such school, 25

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 the register.

(3) Any person who wishes to be registered as the patron of a school may apply to the Minister, in such form as the Minister may, from time to time, determine. 30

(4) Where the Minister receives an application to which *subsection (3)* refers he or she shall decide on whether or not the applicant should be registered having regard to —

(a) the role of the applicant in the school, and 35

(b) the opinion, if any, of the owners or the trustees, if any, of the school.

(5) The Minister may amend the register in respect of any school only on the application of the person who stands for the time being registered as the patron or of the successor to that person. 40

(6) In the case of a school established and maintained by a vocational education committee that committee shall be the patron of the school for the purposes of this Act.

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

(8) In this section “a person” shall include a body of persons and “a school” shall include a proposed school.

5 **42.**—A school shall provide an efficient and effective education to students in the school, as far as resources permit, and, without prejudice to the generality of the foregoing, it shall do all or any of the following— Functions of a school.

- 10 (a) ensure that the educational needs of all students, including those with special needs, are identified and provided for,
- (b) ensure that the education provided by it meets the requirements of education policy prescribed from time to time by the Minister including requirements as to the provision of a core curriculum,
- 15 (c) provide social, personal and health education for students,
- (d) ensure that parents of a 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,
- 20 (e) promote the moral development of the students, in consultation with parents,
- (f) conduct its activities in compliance with any regulations made from time to time by the Minister,
- 25 (g) ensure that the needs of personnel involved in management functions and staff development needs generally in the school are identified and provided for,
- (h) 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,
- 30 (i) establish and maintain contacts at appropriate levels throughout the community served by the school,
- (j) establish and maintain an admissions policy which provides, within the resources available, for maximum accessibility to the school.

35 **43.**—(1) A school shall have a board of management to fulfil in respect of that school the functions assigned to that school by this Act, and each board shall be a body corporate with perpetual succession and power to sue and to be sued in its corporate name. Establishment and membership of boards of management.

(2) Where the Minister proposes to make an order to provide for the composition of a board of any school or class of school he or she shall make all reasonable efforts to reach agreement on the composition of the board with the patrons of those schools, national associations of parents and recognised trade unions and staff associations representing teachers but may, subject to *section 5 (2)*, make an order without having reached agreement with the parties concerned.

(3) The members of a board shall be appointed by the patron of the school in accordance with regulations made by the Minister.

(4) In making appointments to a board the patron shall ensure an appropriate gender balance as determined by the Minister from time to time among the membership thereof. 5

(5) The Minister, in consultation with the patron, national associations of parents and recognised trade unions and staff associations representing teachers, may make regulations relating to the appointment of a board including regulations relating to the making of nominations and the holding of elections and regulations that will enable the patron to appoint a board which has an appropriate gender balance. 10

(6) 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 the provisions of this Act or any regulations made by the Minister pursuant to *section 57*. 15

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

(8) Where a member of a board including the chairperson—

(a) dies, or 20

(b) resigns by written notice to the board, or

(c) is absent from all meetings of that board for a period of six consecutive months, unless such absence was due to illness or was approved of by that board, or

(d) is removed by the patron in accordance with *section 45*, 25

then that member's office shall become vacant and that vacancy shall be filled, as soon as may be after the vacancy occurring, by a new member appointed in the same manner as that in which the vacating member was appointed.

(9) A member appointed pursuant to *subsection (8)* shall hold office for the residue of the vacating member's term. 30

Functions of a board.

44.—(1) It shall be the duty of the board to provide or cause to be provided an education for each student at the school for which that board has responsibility.

(2) The board shall perform functions conferred on it and on a school by this Act and in carrying out its functions the board shall— 35

(a) do so in accordance with the policies determined by the education board and the Minister from time to time,

(b) support the characteristic spirit of the school as determined by the cultural, educational, moral, religious or social values and traditions which inform and underpin the objectives of the school, 40

(c) consult with and keep the patron informed of decisions and proposals of the board,

- 5 (d) ensure that as regards the policy of a school concerning admission to and participation in the school, principles of equality and the rights of parents to send their children to a school of the parents' choice are respected and such directions as may be given from time to time by the Minister are complied with,
- (e) promote respect for the diversity of values, beliefs and traditions in society,
- 10 (f) have regard to the efficient use of resources, 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) make reasonable accommodation for students with special needs.

15 (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.

45.—(1) Subject to the provisions of this section and to the consent of the Minister, the patron may— Dissolution by a patron.

- 20 (a) for stated reasons remove a member of a board from that office, or
- (b) if satisfied that the functions of the board are not being effectively discharged, dissolve that board.

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

30 (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.

35

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

40

(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.

45 (6) Where a patron removes a member of a board the resulting vacancy shall be filled in accordance with *section 43 (9)*.

(7) The patron shall provide, in accordance with the provisions of *section 43*, for the re-establishment of a board dissolved under *subsection (1)* not later than one year following the dissolution 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 a patron at request of Minister.

46.—(1) Where—

- (a) the Minister is satisfied that the functions of a board are not being effectively discharged, or 5
- (b) a board wilfully neglects to comply with any order, direction, regulation of the Minister made or given under this Act, or
- (c) a board fails to comply with any judgement or order of any court of competent jurisdiction, 10

the Minister may, after consultation with the education board, 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. 15

(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 so informing the board and the patron. 20

(3) Whenever the patron dissolves a board under this section, *subsections (5) and (7) of section 45* shall apply.

The Principal.

47.—(1) A board shall, in accordance with procedures agreed from time to time between the Minister, the patron and any recognised trade union or staff association representing teachers, appoint to the school in a whole-time capacity a person to be Principal of that school subject to such terms and conditions as may be determined from time to time by the Minister with the consent of the Minister for Finance. 25

(2) The Principal shall be responsible for the day-to-day management of the school, including control and direction of the staff of the school and shall have all such powers as are necessary or expedient in that regard, subject to such policies as may be determined from time to time by the board and regulations made by the Minister under *section 57*. 30 35

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

(4) Where, at the commencement of this Act, the employer of the Principal in a post-primary school is a person or body of persons other than the board of the school then *subsection (1)* shall apply as if the person who or the body which, at such commencement and from time to time thereafter, is such employer, is substituted for the board of management as therein referred to. 40

Provisions relating to staff.

48.—(1) Subject to the provisions of this section, a board may appoint such and so many persons as teachers and other staff of the school as the board from time to time thinks necessary for the performance of its powers and functions under this Act. 45

(2) The numbers and qualifications of teachers and other staff of a school, who are to be paid from moneys provided by the

Oireachtas, shall be subject to the approval of the education board, with the concurrence of the Minister.

5 (3) A board shall appoint teachers, who are to be paid from moneys provided by the Oireachtas, only in accordance with procedures agreed from time to time between the Minister, the patron and any recognised trade union or staff association representing teachers.

10 (4) Pending the agreement of procedures as provided for in *subsection (3)*, teachers shall, after the commencement of this Part, continue to be appointed in the manner in which they were appointed prior to such commencement.

15 (5) The terms and conditions of employment of teachers appointed by a board and who are to be paid from moneys provided by the Oireachtas shall be determined by the Minister with the consent of the Minister for Finance.

(6) A board may suspend any teacher or other member of the staff of a school and may, subject to the agreement of the patron and the education board, dismiss any teacher or other member of staff including the Principal.

20 (7) Where all or part of the remuneration and superannuation of teachers and other staff of a school is paid or is to be paid from moneys provided by the Oireachtas, such remuneration or superannuation shall be determined from time to time by the Minister, with the concurrence of the Minister for Finance.

25 (8) Where, at the commencement of this section the employer of the teachers or other staff in a post-primary school is a person or body of persons other than the board of management of the school, then the provisions of *subsections (1), (3) and (6)* shall apply as if the person who or the body which, at such commencement and from
30 time to time thereafter, is such employer, is substituted for the board of management as therein referred to.

(9) This section shall not apply to teachers or other staff of a school which is established and maintained by a vocational education committee.

35 **49.**—(1) A board shall keep, in such form as may be approved of by the education board, all proper and usual accounts and records of all income received by it or expenditure of such moneys incurred by it. Keeping of accounts and records.

40 (2) Accounts kept in pursuance of this section shall be submitted annually by a board to the education board 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 education board may from time to time determine.

45 **50.**—(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. Report on operation of board.

50 (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 him or her or them 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. 5

Report and information.

51.—(1) Except where otherwise determined by the education board, having regard to the number of students attending a school, a board shall, as soon as may be after the end of each school year, prepare and submit to the education board a report, in a form determined by the education board with the concurrence of the Minister, on the performance of the school in that year, with particular reference to the achievement of objectives as set out in the school plan provided for under *section 52*. 10 15

(2) A board shall provide the parents of students attending the school with a copy of the report provided for in *subsection (1)*.

(3) A Principal or board shall supply the patron, the education board and the Minister with such information regarding the performance of the board's functions as the patron, the education board or the Minister, as the case may be, may from time to time require. 20

The school plan.

52.—(1) A board shall, as soon as may be after the appointment thereof, make arrangements for the preparation of a plan (in this section referred to as the "school plan").

(2) 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, and the distribution of copies of the plan in Irish and English, as may be given from time to time by the Minister. 25

PART VI 30

Miscellaneous

School year, week, day.

53.—(1) The Minister may, from time to time, 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, 35

(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. 40

(2) In this Act—

"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. 45

54.—(1) The parents of students of a school may establish, and maintain from among their number, a parents' association for that school. Parents' association.

(2) A parents' association may—

5 (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

10 (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 rules for the establishment of a parents' association shall be drawn up by a national association of parents with the concurrence of the Minister and such rules may provide for the election of members and the dissolution of the parents' association.

15 (4) 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 established.

20 (5) A parents' association may make rules governing its meetings and the business and conduct of its affairs.

55.—(1) Where a decision of a teacher or other member of staff of a school materially affects the education of a student— Appeals.

(a) the parent of the student, and

25 (b) in the case of a student who is 16 years of age or older, the student or the parent of the student or both the student and the parent,

may, within a reasonable time from the date that the student or the parent is informed of the decision, appeal that decision to the board.

30 (2) For the purpose of hearing appeals made under *subsection (1)* a board shall establish an appeals procedure, in accordance with the directions of the Minister, that may include the establishment of one or more committees for the purpose of carrying out the board's responsibilities under this section.

35 (3) Where a board refuses to enrol a person as a student or makes a decision which materially affects the education of a student, or determines an appeal made to it under *subsection (1)*—

(a) the parent of the person or the student, and

40 (b) in the case of a person or student who is 16 years of age or older, the person, or the student or the parent of the person or student or any of them,

may within a reasonable time from the date that the person or student or the parent is informed of the refusal, decision or the determination, appeal that decision or determination to the education board.

45 (4) For the purpose of hearing appeals under *subsection (3)* an education board shall establish a committee, in accordance with the

directions of the Minister, (in this section referred to as the “appeals committee”) and any such directions shall determine which classes of appeal shall be by way of a full re-hearing and which classes of appeal shall be confined to determining whether the procedure adopted by the board in reaching a decision or conducting an appeal was fair and reasonable and in the case of appeals relating to enrolment or permanent exclusion of a student from school, such appeals shall be by way of a full re-hearing. 5

(5) The decision of an appeals committee on an appeal made to it under *subsection (3)* shall be final. 10

(6) On determining an appeal made to it under this section, an appeals committee shall send notice in writing of its determination of the appeal and the reasons for that determination to —

(a) the person who made the appeal, and

(b) the board. 15

(7) 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, 20

the committee may include in a notice given under *subsection (6)* a requirement for the board to take such steps as may be specified in the notice within such time as may be so specified for the purpose of remedying that matter. 25

(8) Where it appears to an appeals committee that a board has not, within the time specified in a notice under *subsection (7)*, taken the steps so specified or otherwise remedied the matter the subject of the appeal, it may refer that matter to the Minister together with a copy of the notice under *subsection (6)*. 30

(9) Where any matter is referred to the Minister under *subsection (8)* he or she shall—

(a) consider the matter after hearing such representations, or obtaining such information, from the appeals committee, the person who made the appeal or the board as he or she thinks fit, and 35

(b) where he or she considers it appropriate, give such directions to the board as appear to the Minister to be expedient for the purpose of remedying the matter.

(10) The appeals committee shall be composed of the Director, an Inspector seconded to the education board and a practising barrister or solicitor of not less than ten years standing. 40

Curriculum.

56.—(1) The Minister may, from time to time, prescribe —

(a) the subjects to be included in the curriculum of recognised schools (in this Act referred to as the “core curriculum”), 45

(b) the syllabus of each such subject, and

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

(2) In prescribing the core curriculum, the Minister may prescribe different subjects for different classes of schools.

(3) The Minister may —

5 (a) consult with such persons or bodies of persons as the Minister considers appropriate on any matter relating to the core curriculum for schools, and

(b) establish, as the Minister considers appropriate, such bodies of persons—

10 (i) to conduct research and to advise him or her on matters relating to his or her duties under this section,

(ii) to plan and co-ordinate the provision of textbooks and aids to learning and teaching through Irish.

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

20 **57.**—The Minister may make regulations for the purpose of giving effect to any of the provisions of 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: Regulations.

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

25 (b) the making of grants to education boards and the making of grants by education boards 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;

30 (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;

35 (i) appeals;

(j) patrons of schools; and

(k) the curriculum of schools.

Charges for services.

58.—(1) Subject to the provisions of this section, an education board may make such charges as it considers appropriate in consideration of the provision by it of services (other than services for the Minister or support services).

(2) The determination of the amounts of the charges made by an education board shall be subject to the approval of the Minister and the Minister for Finance. 5

Transfer of functions.

59.—The functions of the Minister under the Vocational Education Acts, 1930 to 1970, are hereby transferred to and shall be exercised by each education board in respect of such vocational education areas as are comprised in the education region of that education board. 10

Financial year.

60.—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.

61.—Section 5 of the Intermediate Education (Ireland) Act, 1878, is hereby amended in paragraph 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.”. 15

Sections 6, 7.

FIRST SCHEDULE

Name of Boards 20

(1) Name of Education Board	(2) Education Region	
1. Dublin City Education Board Bord Oideachais Chathair Bhaile Átha Cliath	Dublin county borough.	25
2. Dublin County Education Board Bord Oideachais Chontae Bhaile Átha Cliath	The administrative counties of Fingal, South Dublin and Dún Laoghaire- Rathdown.	
3. Mid-Eastern Education Board Bord Oideachais an Mheán-Oirthir	The administrative counties of Kildare and Wicklow.	30
4. Midlands Education Board Bord Oideachais Lár na Tíre	The administrative counties of Offaly, Longford, Westmeath and Laois.	
5. Mid-Western Education Board Bord Oideachais an Mheán-Iarthair	The county borough of Limerick and the administrative counties of Clare, Lim- erick and Tipperary North Riding.	35
6. North Eastern Education Board Bord Oideachais an Oirthuaiscirt	The administrative counties of Cavan, Monaghan, Louth and Meath.	
7. North Western Education Board Bord Oideachais an Iarthuaiscirt	The administrative counties of Donegal, Sligo and Leitrim.	
8. South Eastern Education Board Bord Oideachais an Oirdheiscirt	The county borough of Waterford and the administrative counties of Carlow, Kilkenny, Waterford, Wexford and Tipperary South Riding.	40
9. Southern Education Board Bord Oideachais an Deiscirt	The county borough of Cork and the administrative counties of Cork and Kerry.	45
10. Western Education Board Bord Oideachais an Iarthair	The county borough of Galway and the administrative counties of Galway, Mayo and Roscommon.	

Section 7 (2).

SECOND SCHEDULE

50

Education Board

1. (1) As soon as may be after its establishment an education board shall acquire and retain in its possession a seal.

5 (2) The seal of an education board shall be authenticated by the signature of the chairperson or a member of the education board authorised by that education board to act in that behalf and by the signature of an officer of that education board authorised to act in that behalf.

10 (3) Judicial notice shall be taken of the seal of an education board and every document purporting to be an instrument made by the education board and to be sealed with the seal (purporting to be authenticated in accordance with this Schedule) of that education board shall be received in evidence and shall be deemed to be such instrument without proof unless the contrary is shown.

15 2. (1) Each education board at its first meeting shall, in accordance with regulations made by the Minister, elect a member of the education board to be interim-chairperson of that education board and the provisions of this Schedule shall apply to an interim-chairperson in the same way as they apply to a chairperson elected in accordance with *subparagraph (2)*.

20 (2) An interim chairperson shall hold office until the first meeting following the appointment of the members of the education board to which *section 8(3)* relates and at that meeting that education board shall elect from amongst its members a chairperson of that education board.

25 (3) 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.

(4) The chairperson shall cease to hold office on attaining the age of 70 years.

3. The term of office of a member (including the chairperson) shall not be greater than five years.

30 4. (1) If a member of an education board 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 education board to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the education board who occasioned the casual vacancy.

40 (2) A person appointed to be a member of an education board by virtue of 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 education board.

5. (1) The Minister may, at any time, remove a member of an education board from office if he or she has committed stated misbehaviour or his or her removal appears necessary to the Minister for the effective performance by the education board of its functions.

45 (2) 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.

(3) A member shall cease to hold office on attaining the age of 70 years.

50 (4) A member of an education board who is absent from all meetings of the education board for a period of six consecutive months,

unless such absence was due to illness or was approved by that education board, shall be disqualified at the expiry of such period from continuing to be a member of the education board 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 reappointment. 5

6. (1) Each education board shall, from time to time as occasion requires, appoint from amongst its members (other than the chairperson) a member to be deputy-chairperson of the education board. 10

(2) The deputy-chairperson of an education board shall, unless that member sooner resigns, hold office until the expiration of that member's period of office as a member of the education board.

7. (1) Where a member of an education board (including the chairperson)— 15

(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 section 15 (inserted by the European Parliament Elections Act, 1993) of the European Assembly Elections Act, 1977, as having been elected to the European Parliament to fill a vacancy, or 20

(d) is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors, or 25

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

(f) ceases to be a member of the category of person, as provided for in *section 8 (2)*, to which he or she belonged at the time of his or her becoming a member, 30

that member shall thereupon cease to be a member of the education board.

(2) A person shall not be eligible to be a member of an education board if that person—

(a) is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein, or 35

(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 40

(e) within the immediately preceding five years, has been sentenced to a term of imprisonment by a court of competent jurisdiction. 45

8. (1) A member of an education board including the chairperson who has—

(a) any interest in any company or concern with which the education board proposes to make any contract, or

5 (b) any interest in any contract which the education board proposes to make,

shall disclose to the education board the fact of the interest and the nature thereof and shall take no part in any deliberation or decision of the education board relating to the contract, and the disclosure
10 shall be recorded in the minutes of the education board.

(2) A member of an education board who is related to a person who is a candidate for appointment by the education board as an employee of that board shall disclose to the board the fact of the relationship and the nature thereof and shall, if the board so decides,
15 take no part in any deliberation or decision of the board relating to the appointment, and the disclosure and decision shall be recorded in the minutes of the board.

9. The chairperson and members of an education board shall be paid out of funds at the disposal of the education board such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Finance, may decide.
20

10. (1) An education board shall hold such and so many meetings and at such time as the chairperson deems necessary and not less than six meetings shall be held in any 12 month period.

25 (2) A chairperson shall convene a meeting of the education board whenever requested to do so by not less than six members.

(3) The quorum for a meeting of an education board shall be one third of the total number of members, rounded up to the next whole number, plus one.

30 11. At a meeting of an education board—

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

35 (b) if and so long as the chairperson is not present or if the office of chairperson is vacant, the deputy-chairperson shall, if present, be chairperson of the meeting,

(c) if and so long as the chairperson is not present or the office of chairperson is vacant, and the deputy-chairperson is not present or the office of deputy-chairperson is vacant, the members of the education board who are present
40 shall choose one of their number to be chairperson of the meeting.

12. Every question at a meeting of an education board 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
45 chairperson of the meeting shall have a second or casting vote.

13. Subject to *paragraph 10 (3)*, an education board may act notwithstanding one or more than one vacancy among its members.

14. Subject to the provisions of this Act, an education board shall regulate, by standing orders or otherwise, its procedure and business.

Section 19.

THIRD SCHEDULE

Superannuation

1. As soon as may be after the passing of this Act, an education board shall, subject to the provisions of *section 19*, prepare and submit to the Minister a scheme or schemes for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such of its staff (including the Director) as the education board shall think fit. 5
10

2. Every such scheme shall fix the time and conditions of retirement of all persons to or in respect of whom pensions, gratuities or allowances are payable under the scheme and different times and conditions may be fixed in respect of different classes of persons.

3. An education board may at any time prepare and submit to the Minister a scheme amending a scheme previously submitted and approved of under this Schedule. 15

4. A scheme or amending scheme submitted to the Minister under this Schedule shall, if approved of by the Minister with the consent of the Minister for Finance, be carried out by the education board in accordance with its terms. 20

5. If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance of a scheme under this Schedule, such dispute shall be submitted to the Minister for determination by him or her subject to the agreement of the Minister for Finance. 25

6. No pension, gratuity, allowance or other payment shall be granted by an education board nor shall any other arrangements be entered into by the education board for the provision of a pension, gratuity, allowance or other payment to or in respect of an employee (including the Director) otherwise than in accordance with a scheme under this Schedule, or with the approval of the Minister, given with the consent of the Minister for Finance. 30

Section 13.

FOURTH SCHEDULE

Functions of Director 35

1. The Director shall carry out the executive functions of the education board and shall have all such powers as are necessary or expedient in that regard and, without prejudice to the generality of the foregoing, the Director shall carry out the following functions—

(a) any function specified by this Act, 40

(b) any function with respect to the control, direction, supervision, service, appointment, redeployment, promotion, remuneration, privileges or superannuation of employees of the education board,

(c) any function which relates to the administrative and financial control and direction of the education board, except as otherwise provided by this Act, 45

(d) assist the education board to which he or she is appointed in the performance of its reserved functions in such a manner as that education board may direct, and

(e) perform any functions which may be prescribed.

5 2. Except as otherwise provided by this Act, an education board shall not make any decision or give any direction in relation to any matter that under this Act is an executive function.

3. Any dispute as to whether or not a particular function is an executive function shall be determined by the Minister.

10 4. In performing his or her functions, the Director shall act in accordance with such policies as may be determined from time to time by the education board and shall be accountable to the education board for the efficient and effective performance of any or all of his or her functions.

15 5. The Director may delegate any of his or her powers and functions to any other officer of the education board and any such officer shall be answerable to the Director for the exercise of such powers or the discharge of such functions.

20 6. Notwithstanding any delegation, the Director shall at all times remain answerable to the education board in respect of any powers or functions so delegated.

7. The Director shall be entitled to be a member of any and every committee appointed by the education board.

25 8. In the event of the dissolution of an education board in accordance with *section 12* or in the event of a transfer of functions of an education board in accordance with *section 11*, the Minister may by order direct that the Director shall exercise and perform a function which is not an executive function.

30 9. The Director shall supply the Minister with such information regarding the performance of his or her functions as the Minister may from time to time require.



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**AN BILLE OIDEACHAIS, 1997
EDUCATION BILL, 1997**

EXPLANATORY AND FINANCIAL MEMORANDUM

General

The Bill provides for a range of issues relating to rights and duties arising in respect of education, other than third level education and provides for the structure and administration of the education system. A central objective of the Bill is to provide a statutory framework within which the education system can function in a spirit of partnership between the various parties involved, in the interests of ensuring the provision of a high quality education to each person, including a person who has special educational needs. In legislating for a complex system which, by and large, has not previously been subject to legislation, the Bill seeks to respect the traditions and diversity in the school system while introducing more contemporary concepts such as partnership, transparency and accountability.

The main provisions of the Bill provide for:—

- the establishment, composition, operation and functions of education boards;
- the recognition of schools for the purposes of funding by public funds;
- the establishment of the Inspectorate on a statutory basis;
- the establishment, composition and functions of boards of management of schools;
- the establishment and role of parents' associations;
- appeals by students or their parents;
- the making of regulations by the Minister.

Provisions of the Bill

PART I

Preliminary and General

Section 1 provides that the short title of the Act is the Education Act, 1997. It also provides for commencement of the Act. The effect of the commencement provisions is that any particular purpose or provision of the Act, shall come into operation by Ministerial order.

This provides for flexibility in bringing the Act into effect. In the case of the provisions setting up the education boards, *Part II*, an order can be made only with the prior consent of the Government.

Subsection (4) provides that the functions of education boards may be exercised by the Minister pending the appointment of the boards.

Section 2 defines the terms used in the Act.

Section 3 provides that any expenses incurred by the Minister in the administration of the Act shall be paid out of moneys provided by the Oireachtas.

Section 4 provides a mechanism for the service of notices, directions or other documents under the Act.

Section 5(1) provides that regulations made under the Act must be laid before the Houses of the Oireachtas. In general these regulations will be effective, unless annulled by either the Dáil or Senate within 21 sitting days after they are made.

Subsection (2) relates to an order providing for the composition of a board of management of a school where agreement has not been reached on its composition. Such an order must have prior ratification of the Houses of the Oireachtas before becoming effective.

PART II

Education Boards

Section 6 establishes 10 education regions. These are the areas set out in the *First Schedule*.

Section 7 provides that there shall be an education board for each of the education regions established by *section 6*. These boards will be bodies corporate. The *Second Schedule* provides for a range of provisions relating to the terms of office of members, conflict of interest and procedure.

Section 8 makes provision for the composition of education boards. The Minister shall by order specify the number of persons to serve on each board and they shall be appointed by the Minister from each of the following:- nominees of the patrons of schools in the education region, one of whom shall be nominated to the patrons by recognised school management organisations, nominees of any national association of parents (as defined in *section 2*), people employed by schools and nominated by teachers' trade unions, at least one of whom shall be a school principal and the local authorities the functional areas of which are included in the education region (at least one for each authority). In addition to these the Minister will directly appoint members. All of the groups, including the direct Ministerial nominees will be the same in number.

Ministerial nominees will be chosen having regard to the representation of all relevant interests on the board, in particular the representation of religious minorities.

The core board as described above will, under *subsection (3)* nominate other people as members. In doing this they will have regard to the education needs of their region and the desirability of including in the membership of the board people who are representative

of students and adult education or who belong to minority groups in the community or who are disadvantaged.

Subsection (6) provides that the board shall have a gender balance as determined by the Minister and *subsection (7)* provides that the Minister may require the persons who make nominations to do so in accordance with gender balance.

Subsection (8) provides that, in the case of education boards which include a Gaeltacht area in their education region, one of the members appointed under *subsection (3)* will be a nominee of Údarás na Gaeltachta.

Section 9 provides for the objects of an education board.

The first object of a board is to ensure that an appropriate level and quality of education is available to each person in its region. In addition a board must promote equality of access to, and participation in education and the right of parents to send their children to a school of their choice. As regards the education and administrative structures in its region, a board must promote effective liaison between the various partners in education and other local structures, contribute to the realisation of national policies and objectives in relation to education and in relation to the extension of bilingualism in Irish society. The objects include responsibilities towards accountability and transparency. A board must enhance the accountability of the education system by publishing reports, disseminating information and promoting discussion and it must be as open as possible in the conduct of its business and decision making. On a national level, a board must participate in national planning and evaluation of education services as requested by the Minister.

To achieve the objects set for it a board must exercise certain functions as outlined in *subsection (2)*.

These functions are a combination of planning and co-ordinating the provision of education in its region, including adult and continuing education and support services, providing funding to schools and centres for education and support services to students and their parents. A board must engage in proper financial management, planning and accounting. It must assess the efficiency and effectiveness of its operations and services. A board may acquire land or buildings and lease them to any person or body for the purpose of establishing a school. It must ensure that it has staff to provide services through Irish and English and that, in so far as resources permit, it provides services through Irish to schools which teach through the medium of Irish. Generally it may do all such acts and things as may be necessary to further its objects.

Subsection (4) provides that in carrying out its functions an education board shall have regard to the resources available to it, the provision for education and training made by other agencies in its region, Ministerial policies, the need to reflect in its activities the diversity of provision of education services and the right of schools to manage their own affairs. A board is also required to consult with persons who have an interest in and are affected by its decisions.

Section 10 provides that every function required to be performed by an education board shall be a reserved function.

Section 11 provides that the Minister may, having considered a report of a person appointed to carry out an inspection under *section*

30, by order, transfer functions from an education board to its Director or any other person, for a period not exceeding two years, where the board is not performing the duties effectively or is unreasonably impeding or failing to assist the Director. Before making such an order the Minister must notify the Director and the board of her intention to do so and consider any representations they may wish to make. A board from which functions have been transferred will be kept informed by the person carrying them out of matters arising from the exercise of the functions.

Section 12 provides that the Minister may by order dissolve an education board and appoint any person she thinks fit to perform its functions. Such a situation would arise if the Minister, having considered a report of a person appointed to carry out an inspection under *section 30*, is satisfied that the board is not properly discharging its functions or the board refuses to comply with any Ministerial order or direction under the Act or with any court order or judgement. Before making such a dissolution order the Minister must notify the Director and the board of her intention to do so and consider any representations they may wish to make.

Subsection (6) provides that the Minister shall re-establish any education board which has been dissolved within two years of the dissolution and appoint the members of the board in accordance with the provisions of *section 8*.

Section 13 provides that an education board shall appoint a chief executive officer, to be known as the Director, who shall have the functions set out in the *Fourth Schedule*. The Director will be the accounting officer for the board. The Director will be appointed through the Local Appointments Commission.

Subsection (2) provides that the Director must be able to communicate in both Irish and English if the education region includes a Gaeltacht area, and in all cases the board is to have regard to the desirability of appointing a Director who can communicate in both languages.

The Director may be suspended from office by the Minister or the education board and may be removed from office by the Minister, or by the education board with the consent of the Minister, where he or she is unfit to perform his or her duties.

Section 14 provides for the staff of an education board. The Ministers for Education and Finance will determine the numbers and classes of staff and in general appointments will be made through the Local Appointments Commission. The qualifications for appointment must be approved by the Minister. The duties of employees shall be determined by the Director and their terms of employment and salary shall be determined by the education board subject to the approval of the Minister and the Minister for Finance. The Director may suspend or dismiss employees, subject to certain safeguards and the law generally.

Section 15 provides that appointments to education boards, including the appointment of a Director, will be made through the Local Appointments Commission, where the Minister considers this appropriate and the Commission agrees. There is provision for departure from this process for certain classes of staff, other than the Director.

Section 16 contains restrictions for employees of education boards in respect of membership of the Houses of the Oireachtas and the European Parliament.

Section 17 excludes members of local authorities and education boards from becoming employees of education boards and provides that education board employees who become members of local authorities shall be given special leave.

Section 18 provides that staff in vocational education committees and the Department of Education may be transferred to education boards. The Minister is to designate the staff who are to be transferred — after consultation with the Director and with the chief executive officer of the VEC in the case of VEC staff. Staff can only be transferred after they have been given an opportunity to make representations and after representations made by them or on their behalf have been considered. The terms and conditions relating to tenure or generally and those relating to pay cannot be any less favourable after transfer than before except through a negotiated collective agreement. Transferred staff will carry their previous service with them for the purposes of employee protection legislation.

Section 19 provides that the pension entitlements of the staff of education boards are to be governed by a scheme drawn up in accordance with the *Third Schedule* and that staff transferred under *section 18* shall not receive less favourable pension entitlements after their transfer than before. Where a pension falls due after the date of establishment of a board and before the coming into operation of a pension scheme, transferred staff will receive pension entitlements based on their former employment with credit for any service given in the board.

Section 20 provides that, subject to Ministerial directions, two or more education boards may agree to exercise any of their functions jointly and also that education boards shall endeavour to co-ordinate their activities with health boards and other agencies in their education regions, where this is appropriate.

Section 21 provides that the Minister shall determine the maximum net expenditure limits for an education board in any financial year and shall notify the education board of such determination and any amended determination.

Section 22 provides that on notification of its expenditure limits for the financial year, an education board shall adopt and submit to the Minister an operational programme. The format and content of the operational programme shall be in accordance with Ministerial specifications, shall be consistent with the expenditure limits determined by the Minister and shall include a statement of the services to be provided and income and expenditure estimates. Where an operational programme is not submitted within the specified time limits, the Minister may draw up the operational programme or order the Director to draw it up and remove the functions of the education board or dissolve the education board. If the operational programme does not contain the information required or proposes net expenditure which exceeds that set by the Minister or is not in accordance with Government or Ministerial policy, the Minister may direct the board (or the Director, if appropriate) to amend the operational programme.

Section 23 provides that where the Minister varies the maximum amount of net expenditure available to an education board, the education board's operational programme shall stand amended as the Minister directs or the education board shall submit an amended operational programme in accordance with the new financial limits. An education board may amend its operational programme provided that the proposed expenditure does not exceed that determined by the Minister.

Section 24 provides that the Minister shall determine the permissible extent of an education board's indebtedness and the board shall conduct its affairs so that its indebtedness does not exceed that amount.

Section 25 provides that the Director is responsible for implementing the operational programme, ensuring that the expenditure and indebtedness limits set by the Minister are not exceeded and informing the Minister and the board, if he or she believes that a decision of the board would breach those limits.

Section 26 provides that if the net expenditure of a board for a financial year is greater or less than the Ministerial limit, the credit or debit will be carried to the board's account for the following year.

Section 27 provides that an education board shall require the Director to prepare an education plan in accordance with Ministerial directions. The plan will have regard to available resources and set out the objectives of the board over a three year period. While the plan is still in draft form, the education board will be required to consult with parents, patrons and teachers in its region on its contents. The education board shall submit the education plan to the Minister, with such amendments as it deems necessary. The Director shall review the education plan annually and make a report to the education board which may amend the plan, if appropriate. The Minister shall receive copies of both the report and the amended plan, if applicable. Copies of the plan shall be made available to schools, at the main office of the education board for inspection during office hours and in public libraries, and for sale to the public at a reasonable charge.

Section 28 provides that an education board may establish such committees as it considers necessary. These committees may be composed exclusively of board members or be a combination of members and non-members. An education board must, under this section, establish a committee dealing with coordination of training and education with other state agencies and a committee for the promotion of the Irish language and teaching through Irish. The Ministers for Enterprise and Employment and Arts, Culture and the Gaeltacht respectively will either nominate half of the membership of these committees or determine how half of their membership is to be chosen.

Section 29 provides that an education board shall keep accounts of all receipts and expenditure and any special accounts and records requested by the Minister and the Minister for Finance in a form approved by the Minister and the Minister for Finance. These accounts shall be audited annually by the Comptroller and Auditor General and copies presented to the Minister. Copies of the education board's accounts and the report of the Comptroller and Auditor General shall be laid before the Houses of the Oireachtas.

Section 30 provides that where the Minister believes that the functions of an education board are not being effectively discharged, she shall inform the Director of that opinion and the reasons therefor and having considered any representations made to her by the Director or the education board the Minister may appoint a person to report to her on any matter relating to the board. That person will have access to all premises and records of the board at all reasonable times and all staff of the board will co-operate fully with the person in the exercise of his or her functions.

Section 31 provides that the Minister shall give each education board an amount equal to the maximum net expenditure determined by the Minister to fund its operations in accordance with its budgets and programmes as provided for under the Act.

Section 32 provides that after the end of each school year each education board shall submit to the Minister a report on its performance in that year with particular reference to the objects set out in its education plan. The report shall be laid before the Houses of the Oireachtas and copies shall be provided to all schools, centres for education and libraries in the region and shall be available for sale at a reasonable charge.

Section 33 provides that an education board shall provide to the Minister such information in relation to the performance of its functions as she may require.

Section 34 amends the Ombudsman Act, 1980 by including an education board among the bodies subject to that Act.

PART III

Schools

Section 35 provides for the recognition of schools — that a school be recognised is a prerequisite of funding by an education board under *section 37(4)*. Following a request from a patron of a school or a proposed school, an education board may, in accordance with directions of the Minister, designate a school as a recognised school. In deciding on recognition, the education board must consider whether the school satisfies or would satisfy a number of criteria.

Subsection (2) sets out the criteria. The education board must be satisfied that the school has or is likely to have enough students to make the school viable and to merit expenditure of public funds and that in the case of a proposed school, that the needs of students attending or likely to attend cannot be met by existing schools. In considering the latter issue, the education board must have regard not just to the capacity of existing schools to accommodate the students of the proposed school but to the desirability of having diversity in the classes of school in its region.

Other criteria relate to a school's capacity and willingness to provide the core curriculum, to co-operate with the education board and Inspectors, to meet health and safety standards as determined by the education board and to operate in accordance with regulations made by the Minister and with the provisions of this Act.

Subsection (3) provides that a patron of a school or proposed school may appeal to the Minister against a refusal by a board to recognise the school and the Minister may then decide to grant recognition.

Subsection (4) is a statutory recognition of the status quo. A school which is, at the date of coming into effect of this section, already receiving public money for its education activities or for its teachers' salaries shall be deemed to be a recognised school.

Section 36 provides that the Minister or the education board may withdraw recognition from a school which does not satisfy the requirements for recognition or is not effectively performing its functions. The Minister or education board must give to the board of

management, the parents and the patron notice of, and reasons for, the intention to withdraw recognition and consider any representations made. A period of three months is provided for this process of representations. If at the end of that period a decision is taken to withdraw recognition then this shall be effective from the end of the school year following the school year in which the decision was made. In no case therefore will the notice period of withdrawal of recognition be less than 12 months.

A decision by an education board to withdraw recognition shall be subject to appeal to the Minister.

Subsection (4) imposes a duty on an education board to arrange for alternative schools for students enrolled in a school from which recognition is withdrawn, where the students require this.

An education board may, with the consent of the Minister, restore recognition to a school which it is satisfied fulfils the necessary criteria and is performing its functions. *Subsection (6)* provides that recognition cannot be withdrawn from a school which was recognised at the time of coming into effect of the Act on the grounds only that it has not appointed a board of management in accordance with the Act.

Section 37 provides that in each year the Minister shall determine the criteria by which recognised schools are funded. Each education board will on a date in each year determined by the Minister make grants to recognised schools in its region in accordance with the criteria. Grants payable to schools will be a first charge on the expenditure of an education board.

In the case of the schools of vocational education committees, grants will be paid to the committee which will then disburse them, in accordance with the criteria, to its schools.

Subsection (7) provides that where a school does not have, or ceases to have a board of management constituted in accordance with the Act, public funding to the school will be fixed at the level obtaining at the time of the passing of the Act, until a board is appointed. The number of teachers employed in the school and paid from public funds would also be fixed as of the date on which the school ceases to have a board of management, or the date of passing of the Act, as appropriate.

Section 38 provides that where at the commencement of the Act grants are provided by the Minister directly to a body of persons which disburses those grants to two or more schools then nothing in the Act shall alter those arrangements except with the agreement of that body or its successor.

PART IV

The Inspectorate

Section 39 provides for the Inspectorate, composed of the Chief Inspector and Inspectors. This provision places the existing Inspectorate of the Department of Education on a statutory basis and provides a statutory statement of their functions.

The Inspectorate will operate at two levels — at the level of the region and nationally. At regional level the Minister may second Inspectors to education boards who will operate under the control

and direction of the Director. These Inspectors will advise the education board, schools, boards of management, teachers and parents' associations. They will evaluate the quality and effectiveness of schools and centres for education and the teaching provided by teachers; they will assess the implementation of Ministerial regulations and report to the Director on any matter relating to the activities of a school or centre for education. The Inspectors will also have a statutory duty to assess the educational and psychological needs of students and advise them, their parents and the schools in relation to the educational and psychological development of such students.

At national level Inspectors, operating under the direction and control of the Minister, may exercise all of the functions of the regional Inspectors and will also have the following additional functions: to evaluate the quality and effectiveness of educational provision nationally; to assist in the formulation of policy by the Minister; to advise the Minister on any matter relating to educational policy and provision; to supervise the operation of the national examinations system.

Inspectors shall have all powers necessary for the performance of their functions and shall carry out their functions in accordance with Ministerial criteria.

Subsection (9) provides that the Chief Inspector will review an inspection carried out by an Inspector following a request for review from a teacher or board of management.

PART V

Boards of Management

Section 40 defines the terms used in this part of the Act and *Part VI*.

Section 41 provides a procedure for identifying the person or body who is the "patron" of a school for the purposes of the Bill. The aim of the provision is to ensure that the people who at present carry out the functions of patron as provided for in the Bill will continue to do so. The section provides that the patron of a school is the person registered as such in a register to be established by the Minister. The section recognises the status quo as at the commencement of the Act and provides that the persons who are already recognised as patrons of primary schools and the trustees or boards of governors of post-primary schools, or the owners of such post-primary schools if they have neither trustees nor governors, shall be registered as patrons for the purposes of this Act.

Persons wishing to be registered as patrons shall apply to the Minister and in deciding whether to register the person the Minister shall have regard to the applicant's role in the school and the views of the owner or trustees of the school. Amendment of the register may occur only with the consent of the person registered. The patron of VEC schools will be the committee. Provision is made in *subsection (7)* for joint patronage.

Section 42 provides for the functions of a school. They include ensuring that the educational needs of all students, including students with special needs, are identified and provided for; ensuring that the education provided meets the requirements, including curriculum requirements, determined by the Minister; providing social, personal and health education; ensuring that parents have access to records

relating to their children's educational progress; complying with Ministerial regulations; identifying and providing for management and staff development needs in the school; establishing procedures to assess the efficiency of its operations, including the quality of teaching and academic standards of students; establishing contacts at appropriate levels in the community served by the school; establishing an admissions policy providing, within the resources available, for maximum accessibility to the school.

Section 43 provides that every recognised school must have a board of management appointed by the patron and composed as determined by Ministerial order. The patron shall ensure a gender balance on the board as determined by the Minister. Before making an order the Minister must seek agreement with the patron, national associations of parents and unions and associations representing teachers. If agreement cannot be reached then the Minister may make an order which shall be subject to ratification by the Houses of the Oireachtas under *section 5(2)*.

Subsection (6) provides that no action shall lie against any member of a board acting in good faith and in pursuance of the provisions of this Act or Ministerial regulations.

Section 44 provides that it is the duty of a board of management to provide education for students. In performing its functions the board shall: act in accordance with Ministerial and education board policies; support the characteristic spirit of the school; ensure that the school policy as regards access respects principles of equality and the right of parents to send their children to a school of their choice; consult and inform the patron; promote respect for different values and traditions; have regard to efficient use of resources, transparency and accountability and make reasonable accommodation for students with disabilities.

Section 45 provides that a patron may, subject to the approval of the Minister, dissolve a board or remove any member of a board, provided that he or she has given the board or member one month's notice in writing explaining the reasons for the decision and considered any representations made.

On dissolution of the board, the patron may, subject to the approval of the Minister, appoint any body or person to perform the board's functions for a period of up to one year whereupon the board shall be re-established.

Section 46 provides that the Minister may, after consultation with the education board, require a patron to dissolve a board if the board is not discharging its functions, if it does not comply with any Ministerial direction under the Act, or if it fails to comply with any court judgement or order. The Minister must inform the board and patron of her intentions one month before requiring the patron to dissolve the board and consider any representations they may make.

Section 47 provides that, other than in the case of vocational schools, the board shall appoint and select the school Principal in accordance with procedures to be agreed between the Minister, patron and teacher unions and associations. The Principal shall be responsible for day to day school management and shall be entitled to be a member of every committee appointed by the board. Where, before the commencement of the Act, the employer of a post-primary Principal is a body other than a board of management, that body shall, after the commencement of the Act, have the role of the board of management outlined above.

Section 48 provides that a board may select and appoint as many persons as are necessary for the performance of its functions, but that the numbers, qualifications and pay of staff who are to be paid from public monies are subject to the approval of the education board and the Minister. Appointments of these staff will also be subject to procedures agreed between the Minister, patron and staff unions and associations.

Subsection (4) provides that existing appointment procedures shall remain in place pending agreement being reached as provided for in *subsection (3)*.

Subsection (5) provides for the terms and conditions of teachers who are to be paid from public funds.

Subsection (6) provides that a board may suspend or, subject to the agreement of the patron and the education board, dismiss any member of staff.

Where, before the commencement of the Act, the employer of staff in a post-primary school is a body other than a board of management, that body shall, after the commencement of the Act, have the role of the board of management in relation to staff as outlined above.

This section does not apply to staff of a vocational school. Such staff are provided for in vocational education legislation.

Section 49 provides that a board shall keep accounts of all receipts and expenditure. These accounts shall be submitted to the education board on the 30th of April of the year after the year to which the accounts relate, or such other date determined by the education board.

Section 50 provides that the Minister or patron may appoint a person to prepare a report where the Minister or patron is of the opinion that the board is not properly discharging its functions and the person so appointed shall be facilitated by the school. Before appointing such a person the Minister or patron must inform the board of the reasons for believing it is not discharging its functions and consider any representations made.

Section 51 provides that, unless the education board determines otherwise, the board shall provide the education board with an annual report on its performance in the year. The board shall provide parents with a copy of the report.

A Principal shall give the patron, the education board and the Minister such information regarding the performance by the board of its functions as they may require.

Section 52 provides that the board shall make arrangements for the preparation of a school plan. The school plan is to be prepared in accordance with Ministerial directions, including directions as to consultation with parents, patron, staff and students.

PART VI

Miscellaneous

Section 53 provides that the Minister may prescribe the minimum number of teaching days per annum and teaching hours per week

and any other matters relating to the length and organisation of the school day, week or year.

Section 54 provides that parents of students may set up a parents' association for the school in accordance with the rules drawn up by a national association of parents and approved by the Minister. The parents' association may advise the Principal or the board and generally may promote the involvement of parents in the operation of the school. The board shall encourage contact between the school and parents and facilitate the establishment of a parents' association.

Section 55 provides for appeals against decisions of a teacher or a board of management. In the case of appeals against a decision of a teacher or other member of staff of a school a student, or if the student is under 16, his or her parents, may appeal to the board against a decision which materially affects the student's education. The board shall establish an appeals procedure in accordance with Ministerial directions.

If the board makes a decision or determines an appeal in a manner which materially affects a student's education, or refuses to enrol a person as a student then the student, person and/or his or her parents, may appeal to the education board. The education board will be obliged to establish an appeals committee, in accordance with Ministerial directions, to hear such appeals. *Subsection (10)* provides that the composition of the appeals committee will be the Director, an Inspector seconded to the education board and a practising solicitor or barrister of at least ten years standing.

Ministerial directions shall determine which classes of appeal are by re-hearing and which are to be confined to a consideration of procedures. Decisions relating to exclusion from the school will be by way of a full re-hearing.

The appeals committee shall notify its decision to the appellant and the board in writing and where an appeal is upheld in whole or in part and the matter is to be remedied the committee shall inform the board of the measures to be taken.

Where a board of management does not remedy the situation the appeals committee may refer the matter to the Minister who shall consider the matter and hear such representations as she thinks appropriate and give the board such directions, if any, as are necessary to remedy the matter.

Section 56 provides that the Minister may prescribe the core curriculum, the syllabus of each subject and the amount of time to be allotted to each subject. The Minister may consult with such persons as she sees fit in relation to the curriculum and set up bodies to advise her on curriculum, syllabus and teaching time. A school may provide such subjects as it considers appropriate in addition to the core curriculum.

Section 57 provides that the Minister may make regulations to give effect to any of the provisions of the Act.

Section 58 provides that an education board may charge as they deem appropriate for their services. It may not charge for services provided to the Minister or for support services as defined in *section 2*.

Section 59 provides that the Minister's functions under the Vocational Education Act are transferred to and exercisable by the education boards. As in the case of all the provisions of this Act, this

provision will become effective on dates determined by Ministerial order. Different dates may be fixed for different functions.

Section 60 defines the term “financial year” as used in the Bill.

Section 61 repeals part of section 5 of the Intermediate Education (Ireland) Act, 1878. The Act is the basis for the conduct of the Junior and Leaving Certificate examinations.

SCHEDULES

First Schedule — Name of Boards

This schedule names the 10 education boards and indicates the areas they cover.

Second Schedule — Education Board

This schedule provides for a number of practical matters in relation to the operation of education boards including that they shall have seals, the appointment of chairpersons and deputy chairpersons, the terms of office of members, filling of casual vacancies, removal from office, resignation, age limits, eligibility for membership, conflicts of interest, remuneration and the holding and conduct of meetings.

Third Schedule — Superannuation

This schedule outlines the procedure for preparing a superannuation scheme for the staff of an education board.

Fourth Schedule — Functions of Director

This schedule describes the functions of the Director of an education board. These include any function specified by the Act, any function relating to administrative and financial control and direction of the education board and assisting the education board in the performance of its reserved functions. The Director may also delegate his powers or functions but at all times remains answerable to the board for their exercise. The Director is entitled to be a member of every committee of the education board.

*An Roinn Oideachais,
Eanáir, 1997.*