



**AN BILLE UM OIDEACHAS DO DHAOINE FAOI
MHÍCHUMAS, 2002
EDUCATION FOR PERSONS WITH DISABILITIES BILL,
2002**

*Mar a tionscnaíodh
As initiated*

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Education Act, 1998	1998, No. 51
Health Act, 1970	1970, No. 7
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AN BILLE UM OIDEACHAS DO DHAOINE FAOI
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BILL

entitled

AN ACT TO MAKE FURTHER PROVISION FOR THE EDUCATION OF PEOPLE WITH DISABILITIES, TO PROVIDE THAT, TO THE GREATEST EXTENT PRACTICABLE, PEOPLE WITH DISABILITIES SHALL HAVE THE SAME RIGHT TO AVAIL OF, AND BENEFIT FROM, APPROPRIATE EDUCATION AS DO THEIR PEERS WHO DO NOT HAVE DISABILITIES, TO ASSIST CHILDREN WITH DISABILITIES TO LEAVE SCHOOL WITH THE SKILLS NECESSARY TO PARTICIPATE, TO THE GREATEST EXTENT PRACTICABLE, IN AN INCLUSIVE WAY IN THE SOCIAL AND ECONOMIC ACTIVITIES OF SOCIETY AND TO LIVE INDEPENDENT AND FULFILLED LIVES, TO PROVIDE FOR CONSULTATION WITH PARENTS OF CHILDREN WITH DISABILITIES IN RELATION TO THE EDUCATION OF THOSE CHILDREN, TO ENSURE THAT SCHOOLS AND PUBLIC BODIES INVOLVED IN THE EDUCATION OF PEOPLE WITH DISABILITIES ACT IN A CO-ORDINATED WAY IN THE INTERESTS OF THOSE PEOPLE, FOR THOSE PURPOSES TO ESTABLISH A BODY TO BE KNOWN AS THE NATIONAL COUNCIL FOR SPECIAL EDUCATION AND TO DEFINE ITS FUNCTIONS, TO CONFER CERTAIN FUNCTIONS ON HEALTH BOARDS IN RELATION TO THE EDUCATION OF PEOPLE WITH DISABILITIES, TO ENABLE CERTAIN DECISIONS MADE IN RELATION TO THE EDUCATION OF PEOPLE WITH DISABILITIES TO BE THE SUBJECT OF AN APPEAL TO AN APPEALS BOARD AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, unless the context otherwise requires—

Interpretation.

“Act of 1998” means the Education Act, 1998;

“An Foras” means An Foras Áiseanna Saothair;

40 “Appeals Board” shall be construed in accordance with *section 34*;

“assessment” means an assessment carried out in accordance with *section 7*;

“child” means a person not less than 3 nor more than 18 years of age;

“child with special educational needs” means a child who, because of attributes arising from a disability, is unable to benefit from an ordinary school programme without special classes or other special education services and cognate expressions shall be construed accordingly;

“Council” shall be construed in accordance with *section 18*;

“disability” means—

- (a) the total or partial loss of a person’s bodily or mental functions, including the loss of a part of the person’s body, or
- (b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness, or
- (c) the malfunction, malformation or disfigurement of a part of a person’s body, or
- (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
- (e) a condition, illness or disease which affects a person’s thought processes, perception of reality, emotions or judgements or which results in disturbed behaviour;

“education plan” shall be construed in accordance with *section 3(4)* or *9(1)*, as appropriate;

“health board” means—

- (a) a health board established under section 4 of the Health Act, 1970,
- (b) the Eastern Regional Health Authority, or
- (c) the Northern Area Health Board, the East Coast Area Health Board or the South-Western Area Health Board;

“Minister” means the Minister for Education and Science;

“national association of parents” has the same meaning as it has in the Act of 1998;

“parent” has the same meaning as it has in the Act of 1998;

“recognised school” has the same meaning as it has in the Act of 1998;

“recognised school management organisations” has the same meaning as it has in the Act of 1998;

“recognised trade union or staff association” means a trade union or staff association recognised by the Council for the purposes of negotiations that are concerned with the remuneration, conditions of employment, or working conditions of employees;

“Register” means the register established and maintained by the Council in accordance with *section 8*;

“school” has the same meaning as it has in the Act, of 1998;

“school year” has the same meaning as it has in the Act of 1998;

5 “special educational needs organiser” shall be construed in accordance with *section 24*;

“support services” has the same meaning as it has in the Act of 1998;

“team” shall be construed in accordance with *section 9* or *11*, as appropriate.

10 (2) In this Act —

(a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,

15 (b) 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 reference to some other provision is intended, and

20 (c) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, extended or adapted by or under any subsequent enactment.

2.—The Council shall ensure that—

Integrated education.

(a) to the greatest extent practicable consistent with—

25 (i) the needs of the child,
(ii) the wishes of his or her parents,
(iii) the efficient provision of an education for children with whom the child is to be educated, and
(iv) the efficient use of resources,

30 the provision of education to a child with special educational needs takes place alongside the provision of education to children without such needs,

35 (b) a child with special educational needs shall be provided with education in special classes, separate schools or otherwise in settings removed from the ordinary educational environment of a school only when education in that environment with the use of appropriate support services is not capable of meeting the educational needs of the child.

40 **3.—**(1) Where a principal of a school is of the opinion that a student registered in the school is not benefiting from the regular education programme which is provided in the school for children who do not have special educational needs he or she shall make

Preparation of education plan by school.

such efforts as are practicable to meet the educational needs of that student.

(2) Where a principal of a school, having made such efforts as are referred to in *subsection (1)*, is of the opinion that the student referred to in that subsection is a child with special educational needs he or she shall give notice in writing of that opinion to the special educational needs organiser with responsibility for that school. 5

(3) Subject to *section 7(2)*, where the special educational needs organiser receives a notice referred to in *subsection (2)* he or she shall, unless satisfied — 10

(a) that the child referred to in the notice does not have special educational needs, or

(b) that the school has not made all efforts that are practicable to meet that child's educational needs,

cause an assessment of the educational needs of the child to be carried out. 15

(4) Upon receipt of the statement of findings under *section 5(5)* in relation to an assessment under *subsection (3)*, the principal of the school shall prepare a plan for the appropriate education of the child concerned (in this Act referred to as an "education plan"). 20

(5) In preparing that plan, the principal shall consult with the parents of the child concerned, the special educational needs organiser with responsibility for the school concerned and such other persons as the principal considers appropriate.

(6) As soon as practicable after an education plan has been prepared under *subsection (4)* the school shall give notice in writing to the Council of that fact and the Council shall enter the child concerned in the Register. 25

(7) Where having regard to the nature and extent of a child's disability and his or her special education needs the principal considers it appropriate to do so, the principal of the school may, instead of preparing an education plan under *subsection (4)* in respect of the child, request the special educational needs organiser with responsibility for the school concerned to prepare such a plan in respect of the child. 30 35

(8) If the special educational needs organiser accedes to a request under *subsection (7)*, then *subsections (2) to (6) of section 9* shall apply as if the organiser had been given a direction under *subsection (1)* of that section.

Notification to Council.

4.—(1) Where a health board is of the opinion that a child in its functional area has or is likely in the future to have special educational needs, it shall give notice in writing to the Council of that opinion. 40

(2) Where a health board proposes to give to the Council a notice under *subsection (1)*, the board shall first give notice in writing to the parents of the child of its intention to do so and the reasons therefor. 45

(3) A notice under *subsection (1)* shall be given by the health board as soon as practicable after the opinion concerned is formed and *subsection (2)* is complied with.

5 **5.—**(1) A parent of a child who is of opinion that his or her child has special educational needs may apply to the Council to have the child entered in the Register. Application by parent to register a child.

10 (2) An application under *subsection (1)* shall be in writing and shall be in such form and contain such information and be accompanied by such assessments as shall be determined by the Council.

15 (3) A parent who makes an application in accordance with this section shall provide the Council with such information concerning the child concerned as the Council considers necessary for the purposes of reaching a decision in relation to the application and requests the parent to provide.

20 (4) The Council, having considered an application made in accordance with *subsection (1)*, any assessment referred to in *section 8(2)* that has been carried out in relation to the child concerned, such information as may be provided by the child's parents or the school at which the child is a registered student and such other information as the Council considers relevant, may—

(a) register the child, or

(b) refuse to register the child.

25 (5) Where the Council refuses to register the child it shall give notice in writing to the parents of the child of the reasons for that refusal.

(6) A parent of the child concerned may, within one month from the date of the notice referred to in *subsection (5)*, appeal to the Appeals Board against the decision of the Council.

30 (7) On the hearing of an appeal under *subsection (6)*, the Appeals Board may—

(a) allow the appeal and give a direction to the Council requiring it to enter the child in the Register, or

(b) dismiss the appeal.

35 (8) The Council shall comply with a direction given to it under *subsection (7)*.

40 **6.—**Where the Council receives a notice under *section 4* or an application under *section 5* the Council may, if it considers it appropriate to do so and subject to *section 7(2)*, cause an assessment of the educational needs of the child concerned to be carried out. Assessment of child by Council.

7.—(1) An assessment under *section 3(3)* or *6* shall be carried out by persons possessing such expertise as the special educational needs organiser or the Council, as the case may be, considers appropriate; those persons may include one or more of the following — Mode of assessment under *section 3(3)* or *6*.

45 (a) a psychologist;

- (b) a medical practitioner;
- (c) a teacher nominated by the principal of the school which the child is attending;
- (d) a social worker; and
- (e) a therapist.

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(2) Before causing an assessment under *section 3(3)* or 6 to be carried out the special educational needs organiser or the Council shall give notice in writing to the parents of the child of the intention to do so and the reasons therefor and shall not cause the assessment to be carried out without the consent in writing of the parents.

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(3) In carrying out an assessment under *section 3(3)* or 6, the persons concerned shall have regard to any relevant assessment of the needs of the child concerned in respect of a health service that has been made or caused to be made by a health board pursuant to any enactment (whether passed before or after the commencement of this section).

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(4) In *subsection (3)* the reference to an assessment of the needs of the child concerned that has been made or caused to be made shall be construed as a reference to such an assessment in the form that the assessment stands for the time being in consequence of any review carried out in relation to it pursuant to the relevant enactment.

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(5) A statement of the findings in relation to an assessment under *section 3(3)* or 6 shall be provided to the parents of the child concerned as soon as practicable after the assessment is completed.

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(6) The special educational needs organiser or the Council shall make available all or part of that statement to such persons engaged in the education of the child as he or she or it considers appropriate, having regard to the need to ensure that such persons are informed of the child's educational needs.

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Register.

8.—(1) The Council shall, on the commencement of this section, cause to be established and maintained a register of all children who have special educational needs.

(2) Where following an assessment carried out under *section 6* or consideration by it of any assessment of the educational needs of the child concerned that has otherwise been carried out by any person in the previous 6 months the Council is satisfied that a child has special educational needs it shall cause the following and any other information that it considers to be appropriate to be entered in the Register:

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- (a) the name of the child and the address at which he or she is ordinarily resident,
- (b) the name of the parents of the child and the address at which such parents are ordinarily resident,
- (c) the nature and extent of the child's disability,
- (d) the name and address of the school, if any, which the child is attending or the place where any other educational provision, if any, is being made for the child.

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9.—(1) As soon as practicable after entering the name of a child in the Register the Council shall, unless an education plan has been prepared under *section 3* in respect of the child, direct the relevant special educational needs organiser to prepare a plan for the appropriate education of the child (in this Act also referred to as an “education plan”).

(2) The relevant special educational needs organiser shall convene a group of persons (in this Act referred to as a “team”) to provide advice to him or her in relation to the preparation of the plan concerned and a team may provide such advice to that organiser accordingly.

(3) A team shall include the parents of the child and may include one or more of the following as the special educational needs organiser thinks fit —

(a) the child where this is considered appropriate by the special educational needs organiser having regard to the age of the child and the nature and extent of the child’s disability,

(b) the principal of the relevant school, or a teacher nominated by the principal of the relevant school to be a member of the team,

(c) a psychologist employed by the Minister or the National Educational Psychological Service, or a person determined by the special educational needs organiser to have sufficient expertise in psychology and nominated, as the case may be, by the Minister, the said service or the organiser to be a member of the team, and

(d) any other persons whom the parents or the special educational needs organiser consider have special expertise regarding the child’s abilities and disability and are nominated, with the consent of the organiser, by the parents or, as appropriate, the organiser to be members of the team.

(4) In preparing an education plan the special educational needs organiser shall have regard to any relevant assessment of the needs of the child concerned in respect of a health service that has been made or caused to be made by a health board pursuant to any enactment (whether passed before or after the commencement of this section) and shall ensure that, to the greatest practicable extent, the education plan is consistent with such an assessment.

(5) In *subsection (4)* the reference to an assessment of the needs of the child concerned that has been made or caused to be made shall be construed as a reference to such an assessment in the form that the assessment stands for the time being in consequence of any review carried out in relation to it pursuant to the relevant enactment.

(6) In this section—

“relevant school” means the school which the child concerned is attending or which it is proposed the child will attend;

“relevant special educational needs organiser” means the special educational needs organiser with responsibility for the area in which

the relevant school is situated or, as the case may be, for the particular category of school designated pursuant to *section 24(3)* into which the relevant school falls.

Content of
education plan.

10.—(1) An education plan under *section 3* or *9* shall be in such form as the Council may determine from time to time and specify in a notice published, in such manner as it thinks fit, for the purposes of this subsection. 5

(2) The matters to be specified in an education plan under *section 3* or *9* shall include —

(a) the nature and degree of the child’s disability and how that disability affects his or her educational progress, or, in the case of a child who is not yet attending school, (in this section referred to as a “pre-school child”) how the disability affects his or her development; 10

(b) except in the case of pre-school child, the present level of educational performance of the child; 15

(c) the special educational needs of the child;

(d) the special education and related support services to be provided to the child to enable the child to benefit from education and to participate in the life of the school; 20

(e) the special education and related support services to be provided to the child to enable the child to effectively make the transition from primary school education to post-primary school education;

(f) the goals which the child is to achieve over a period not exceeding 12 months, and 25

(g) the name of the school which the child is to attend.

(3) The Council may prepare guidelines with respect to the matters to be provided in an education plan prepared under *section 3* by reference to the category of special educational need or disability (being a category of such need or disability specified in the guidelines for the purpose) that is relevant to the child concerned and, in particular, by reference to that category, with respect to the matters specified in *paragraphs (d), (e) and (f) of subsection (2)*. 30

(4) In preparing an education plan under *section 3* the principal of the school concerned shall, unless he or she decides, with the consent of the special educational needs organiser with responsibility for that school, that there are good and substantial reasons for not doing so, comply with guidelines for the time being in force under *subsection (3)*. 35 40

(5) The Council may amend guidelines for the time being in force under *subsection (3)*.

(6) The Council shall publish, in such manner as it thinks fit, guidelines prepared by it under *subsection (3)*.

(7) In the case of a child who is aged 14 years or older, in preparing or reviewing an education plan, the relevant principal or special educational needs organiser shall consider, and include (unless, in the case of a review, the plan already includes such provision) in the 45

5 plan, the provision to be made to assist in the child's transition from receiving education at school to his or her, on reaching 18 years of age, receiving education at another educational institution or, as may be appropriate, by means of vocational training or other means of education.

11.—(1) Without prejudice to *subsection (4)*, the principal of the relevant school shall review or cause to be reviewed at regular intervals, but in any case not less than once a year, the operation of each education plan for children who are attending the school — Review of education plan.

10 (a) for the purpose of establishing whether or not the child concerned is achieving the goals specified in the education plan, and

(b) with a view to making recommendations in a report under *subsection (2)* for the amendment of the plan.

15 (2) The principal shall make a report to the relevant special educational needs organiser of the outcome of a review under *subsection (1)*.

(3) Where, as a result of his or her consideration of that report, the special educational needs organiser is of opinion that the child concerned is significantly failing to achieve the goals specified in the education plan the organiser may reconvene the relevant team, or, as the organiser thinks fit, engage the assistance of one or more of the members of that team, or, in the case of an education plan prepared under *section 3*, convene a group of persons (in this Act also referred to as a “team”), for the purpose of reviewing the content and implementation of the plan and may, as a consequence of that review, amend the plan.

(4) Where parents have reason to believe that their child is not achieving the goals specified in the education plan and a review of the plan has not occurred in the previous 6 months they may request the principal of the relevant school to arrange for such a review and where the principal considers it appropriate to accede to their request he or she shall carry out or cause to be carried out that review as if it were a review under *subsection (1)* and *subsection (2)* shall apply accordingly.

(5) If the principal decides that it is not appropriate to accede to a request under *subsection (4)* he or she shall give notice in writing to the parents of that decision and the reasons therefor.

(6) The parents may appeal to the relevant special educational needs organiser against a refusal by the principal to accede to a request under *subsection (4)* and, on the hearing of such an appeal, the special educational needs organiser may —

(a) allow the appeal and give a direction to the principal requiring him or her to review or cause to be reviewed the education plan (and such a review shall be regarded as a review under *subsection (1)* and *subsection (2)* shall apply accordingly), or

(b) dismiss the appeal.

(7) The principal of a relevant school to whom a direction is given under *subsection (6)* shall comply with it.

(8) In this section “relevant school” and “relevant special educational needs organiser” have the same meaning as they have in *section 9*.

Appeals in relation
to education plans.

12.—(1) Parents may, in respect of their child, appeal to the Appeals Board against—

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(a) any statement or description of their child’s special educational needs as set out in an education plan, or

(b) any other statement or description appearing in the education plan as initially prepared or as it stands amended for the time being in consequence of a review,

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on the ground that the statement or description is incorrect or inadequate to meet the child’s special educational needs.

(2) On the hearing of an appeal under this section the Appeals Board may—

(a) allow the appeal and give a direction to the principal of the relevant school or the Council requiring the principal or the Council to amend the plan in such manner as the Appeals Board considers appropriate and specifies in its direction or give such other direction to the principal or the Council relating to the child’s education as the Board considers appropriate, or

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(b) dismiss the appeal.

(3) The principal of the relevant school or the Council, as the case may be, shall comply with a direction given to the principal or the Council under *subsection (2)*.

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(4) In this section “relevant school” has the same meaning as it has in *section 9*.

Duty of Minister to
make financial
resources available.

13.—(1) The Minister shall, with the consent of the Minister for Finance, out of moneys provided by the Oireachtas, provide for the payment to or in respect of schools and their employees such moneys as are necessary for the provision of appropriate education to children with special educational needs.

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Duty of schools.

14.—(1) The board of management of a school shall—

(a) make all reasonable efforts to ensure that the special educational needs of students of the school are met;

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(b) co-operate to the greatest extent practicable with the Council and its employees;

(c) ensure that all relevant teachers and other relevant employees of the school are aware of the special educational needs of students;

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(d) ensure that teachers and other employees of the school are aware of the importance of identifying children who have special educational needs;

(e) inculcate in students of the school an awareness of the needs of persons with disabilities;

(f) ensure that, as regards admission to and participation in the school, a policy of maximum accommodation for children with special education needs is in place and implemented.

(2) *Subsection (1)* is in addition to, and not in substitution for, any other enactment imposing duties on boards of management of schools.

15.—(1) Where, having regard to the particular disability of the child concerned, a parent or a health board is of the view that steps ought to be taken to provide an education service to a child who is younger than 3 years of age, the parent or the health board may request the Council to enter the child in the Register for the purposes of those steps being taken. Early intervention.

(2) The provisions of *sections 5* and *6* apply to a request under this section as they apply to a request under *subsection (1)* of *section 5*.

(3) The other provisions of this Act, consequent on the operation of *sections 5* and *6* in relation to him or her, shall apply to a child referred to in *subsection (1)* notwithstanding the definition of “child” in *section 1*.

16.—(1) If the Council considers, having had regard to the education plan relating to the child, that the educational needs of a child (“the person concerned”) will, on the person’s reaching 18 years of age, be met most effectively by providing for a continuation of his or her education in the school which he or she is attending it shall arrange for the continued attendance of the person concerned in that school for a further period of one school year and it shall give notice in writing to the health board in the functional area of which the person concerned resides (“the relevant health board”) of those arrangements. Education for adults with disabilities.

(2) If the Council considers, having had regard to the education plan relating to the child, that the educational needs of a child (“the person concerned”) will, on the person’s reaching 18 years of age, be met most effectively in a setting other than a school it shall give notice in writing of that decision to the relevant health board as soon as practicable after it reaches that decision but in any case not less than one year prior to the eighteenth birthday of the person concerned.

(3) The Council and the relevant board, in consultation with the persons specified in *subsection (9)*, shall consider what is the most appropriate educational provision that can be made—

(a) in relation to the person concerned referred to in *subsection (1)*, on his or her completing the further period of education referred to in that subsection and

(b) in relation to the person concerned referred to in *subsection (2)*, on and from the end of the school year in which the person reaches 18 years of age.

(4) If, after having considered the matter under *subsection (3)*, the Council and the relevant health board are of the opinion that the person concerned may benefit from training or employment services, the health board shall give notice in writing to An Foras of that opinion. 5

(5) Where An Foras receives a notice under *subsection (4)*, it shall assess the needs of the person concerned in respect of training and employment services and shall provide or arrange for the provision in respect of that person of such training or employment services in accordance with the Labour Services Act, 1987, as it thinks 10 appropriate.

(6) If, after having considered the matter under *subsection (3)*, the Council and the relevant health board are of the opinion that the person concerned is not capable of benefiting from training or employment services the health board shall make, or cause to be 15 made, provision for the person concerned to participate in a programme of continuing education and personal development for either such period as the board considers necessary to ensure the person continues to make the best use of his or her capacities or until he or she has, in the opinion of the board, become capable of 20 benefiting from training or employment services (and when the board becomes of the opinion that the person has become so capable, then *subsection (4)* shall apply with the necessary modifications).

(7) Provision of the kind to which *subsection (6)* applies shall be 25 made in a setting appropriate to the age and needs of the person concerned and amongst the persons who shall be concerned in providing the programme concerned shall be a person who is a registered teacher (within the meaning of the Teaching Council Act, 2001). 30

(8) The persons mentioned in *subsection (3)* are—

- (a) the person concerned,
- (b) the parents of the person concerned,
- (c) a special educational needs organiser nominated by the 35 Council,
- (d) a person who provides an advocacy service, and
- (e) such other persons with appropriate expertise as the Council and the health board consider it appropriate to consult with.

(9) Nothing in this section— 40

- (a) restricts any right of a person which he or she has, apart from under this section, to receive and benefit from higher, further and continuing education in the same way and to the same extent as a person who does not have a disability, 45
- (b) limits or constitutes an exception to the duty imposed by any other enactment on education and training institutions in respect of the provision by them of higher, further and continuing education for persons who have disabilities. 50

(10) In this section—

“advocacy service” means a service provided to persons with disabilities pursuant to any enactment (whether passed before or after the commencement of this section), being a service expressed in that enactment to be an “advocacy service”;

“employment services” means services the purposes of which are to assist or facilitate a person in obtaining employment or fulfilling some or all of the duties of the employment he or she may obtain.

17.—(1) The person concerned referred to in *section 16*, or his or her parents, may appeal to the Appeals Board against the provision made or proposed to be made under *subsection (6)* of that section in respect of that person on the ground that the provision or proposed provision is, to a significant extent, deficient.

Appeal against provision under *section 16(6)*.

(2) On the hearing of an appeal under this section, the Appeals Board may—

(a) allow the appeal and specify the manner in which the health board shall make provision in respect of the person concerned under *subsection (6)* of *section 16*, or

(b) dismiss the appeal.

(3) A health board to which a decision under *subsection (2)* relates shall comply with that decision.

18.—(1) There shall stand established on the establishment day a body to be known as the National Council for Special Education, and which in this Act is referred to as the “Council”, to perform the functions conferred on it by or under this Act.

National Council for Special Education.

(2) The Council shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and, with the consent of the Minister (given with the approval of the Minister for Finance), to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

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

19.—(1) The Council shall have the following functions:

Functions of Council.

(a) to establish and maintain the Register;

(b) to disseminate to schools and to parents information relating to best practice, nationally and internationally, concerning the education of children with special educational needs;

(c) in consultation with schools and health boards to plan and co-ordinate the provision of education and support services to children with special educational needs;

(d) in consultation with schools to plan for the integration of education for students with special educational needs with education for students generally;

- (e) to make available to the parents of children with special educational needs information in relation to the entitlements of their children;
 - (f) to ensure that the progress of students with special educational needs is monitored and that it is reviewed at regular intervals; 5
 - (g) to assess and review the resources required in relation to educational provision for children with special educational needs;
 - (h) to ensure that a continuum of special educational provision is available as required in relation to each type of disability; 10
 - (i) to review the provision made by health boards pursuant to *section 13* and publish reports on the results of such reviews (which reviews may include recommendations as to the manner in which such provision could be improved); 15
 - (j) to review generally the provision made for adults with disabilities to avail of higher education and adult and continuing education and to publish reports on the results of such reviews (which reviews may include recommendations as to the manner in which such provision could be improved); 20
 - (k) to advise all educational institutions concerning best practice in respect of the education of adults who have disabilities; 25
 - (l) on being requested by the Minister to do so, to advise the Minister in relation to any matter relating to the education of children and others with disabilities, and
 - (m) to conduct and commission research on matters relevant to the functions of the Council and, as it considers appropriate, to publish in such form and manner as the Council thinks fit the findings arising out of such research. 30
- (2) The Council shall have the power to do all things necessary for or incidental to the performance of its functions. 35
- (3) The Council, in the performance of its functions, shall—
- (a) implement the policies relating to education generally and the education of children with special educational needs which are formulated, from time to time, by the Minister, and 40
 - (b) in giving advice to the Minister, have regard to the implications of that advice for the resources, including financial resources, available to the State in respect of the provision of education and to the practical implementation of that advice. 45

20.—(1) The Council shall consist of a chairperson and 10 ordinary members. Membership of Council.

(2) The chairperson and ordinary members of the Council shall be appointed by the Minister from among persons who have a special interest in or knowledge relating to the education of children with disabilities.

(3) The Minister shall have regard to the desirability of such gender balance in the membership of the Council as he or she considers appropriate and determines, from time to time, when making appointments to the Council under this section.

(4) The members of the Council (including the chairperson) may be paid such remuneration and allowances for expenses incurred by them as the Minister, with the consent of the Minister for Finance, may determine.

21.—(1) There shall be, for the purpose mentioned in *subsection* (2), a consultative forum, that is to say, a group of persons who shall be appointed in accordance with *subsections* (3) and (5) and who, as a collective body, are referred to subsequently in this section as the “consultative forum”. Consultative forum.

(2) The purpose referred to in *subsection* (1) is the purpose of the Council’s consulting the consultative forum with respect to the performance by the Council of one or more functions, or elements of one or more functions, determined by the Council, from time to time, to be functions or elements of functions appropriate for such consultation to take place in relation to them.

(3) Such number of persons (not exceeding 17) as the Council considers appropriate shall be appointed by the Council to be members of the consultative forum.

(4) Before appointing persons to be members of the consultative forum the Council shall consult with—

- (a) the Minister,
- (b) national associations of parents,
- (c) recognised school management organisations,
- (d) recognised trade unions and staff associations representing teachers and principals of schools, and
- (e) such other persons having a special interest in or knowledge relating to the education of children with disabilities as the Council considers appropriate.

(5) Such number of persons (not exceeding 3) as the Minister considers appropriate shall be appointed by the Minister to be members of the consultative forum.

(6) The term of office of each member of the consultative forum shall be determined by the Council with the consent of the Minister.

(7) The members of the consultative forum may be paid such allowances (if any) for expenses incurred by them in the discharge of their functions as may be determined by the Minister with the consent of the Minister for Finance.

Director.

22.—(1) There shall be a chief executive of the Council who shall be appointed by the Council (and such officer shall be known, and is in this Act referred to, as “the Director”).

(2) The Director shall be appointed in a whole-time capacity.

(3) The Director shall be appointed in accordance with procedures determined by the Council with the consent of the Minister. 5

(4) The Director shall manage and control generally the staff, administration and business of the Council, and shall perform such other functions as may be conferred on him or her by the Council.

(5) *Schedule 2* to this Act shall apply to the Director. 10

Employees.

23.—(1) Subject to the consent of the Minister and the Minister for Finance, the Council may, from time to time, appoint such and so many persons to be employees of the Council as the Council may determine.

(2) Subject to such conditions as it thinks fit, the Council may delegate to the Director any of the functions of the Council in relation to the appointment of employees and the determination of selection procedures. 15

(3) Except as otherwise provided by this Act, the Director and each other employee of the Council shall be employed on such terms and conditions as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine. 20

(4) Except as otherwise provided by this Act, the Council shall pay to its employees (including the Director) such remuneration, fees and allowances for expenses as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine. 25

(5) The Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996, shall apply to the Director and to employees of the Council who are appointed as officers of the Council (as distinct from being employed by the Council under a contract of employment) in a whole-time capacity. 30

Special educational
needs organisers.

24.—(1) The Council may appoint such and so many persons as it determines to perform the functions expressed by this Act to be performable by special educational needs organisers and each person who is so appointed shall be known, and in this Act is referred to, as a “special educational needs organiser”. 35

(2) A special educational needs organiser shall, in addition to the functions conferred on him or her under this Act, perform such additional functions as may be assigned to him or her by the Council. 40

(3) A special educational needs officer shall perform his or her functions in respect of particular areas in the State or particular categories of school in the State as the Council may from time to time designate as being that officer’s responsibility.

(4) The board of management, principal, teachers and other members of staff of a recognised school shall give all such assistance as may reasonably be required by the special educational needs organiser in the performance by him or her of his or her functions. 45

25.—(1) The National Council for Curriculum and Assessment Curriculum.
shall consult with the Council prior to advising the Minister under
section 41(2)(f) of the Education Act, 1998.

5 **26.—**(1) Where the Minister is of the opinion that the Council has Removal of Council
failed, neglected or refused to perform a function assigned to it under from office.
this Act or has failed to effectively perform any such function or
otherwise has contravened this Act, the Minister may, after first
advising the Council of his or her opinion and considering any expla-
10 nation given in response, appoint a person to inquire into any matter
giving rise to that opinion.

(2) A person appointed under *subsection (1)* shall—

- (a) inquire into the matters giving rise to the Minister's opinion
and any related matter and report to the Minister on the
findings of the inquiry,
- 15 (b) for the purposes of this section, be entitled at all reasonable
times to enter the premises of the Council to inquire into
the affairs of the Council or to conduct an inspection of
the premises, equipment and records where the inspec-
tion is, in his or her opinion, relevant to the inquiry,
- 20 (c) be afforded all reasonable co-operation and assistance by
the Council and its employees, including access to such
premises, equipment and records as the person may
require, to enable the person to perform his or her func-
tions under this section.

25 (3) Where the Minister, after considering the report referred to in
subsection (2)(a), remains of the opinion that the Council has failed,
neglected or refused to perform a function assigned to it under this
Act or has failed to effectively perform any such function or other-
wise has contravened this Act, the Minister shall, by notice in writing,
30 inform the Director and the chairperson of the Council, and shall
give a copy of the report to the Director and the chairperson.

(4) The Council may make representations to the Minister in
respect of the report within 14 days after the date of receipt of the
report.

35 (5) After the end of the period referred to in *subsection (4)* and
after considering the representations, if any, of the Council in respect
of the report, the Minister may by order remove the members of the
Council and terminate their membership if—

40 (a) the Minister remains of the opinion that the Council has
failed, neglected or refused to perform a function
assigned to it under this Act or has failed to effectively
perform any such function or otherwise has contravened
this Act, and

45 (b) the Minister is of the opinion that the Council should be
removed.

(6) Where an order is made under *subsection (5)*, the Minister
shall appoint such person or body of persons as he or she thinks fit
to perform the functions of the Council and that person or body shall
perform those functions until the commencement of the first meeting
50 of the Council after the appointment of its members under *subsection*
(8).

(7) Where an order is proposed to be made under *subsection (5)*, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(8) The Minister shall, as soon as practicable, but in any case not later than 12 months after the removal of the members of the Council, appoint, in replacement of those members, members of the Council in accordance with *section 20*. 5

(9) The remuneration, if any, of a person appointed under *subsection (1)* or of a person or member of a body appointed under *subsection (6)* shall be determined by the Minister with the consent of the Minister for Finance and be paid out of moneys provided by the Oireachtas. 10

Accounts and
audits.

27.—(1) The Council shall keep, in such form as may be approved of by the Minister, all proper and usual accounts and records of all moneys received or expended by it. 15

(2) Accounts kept in accordance with *subsection (1)* shall, to the extent directed by the Comptroller and Auditor General, be submitted by the Council for audit to the Comptroller and Auditor General, at such intervals and by such date as the Comptroller and Auditor General may from time to time determine and, immediately after the audit, a copy of the accounts, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be submitted by the Council to the Minister. 20

(3) The Council shall cause copies of the accounts submitted under this section to the Minister, together with copies of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas. 25

Accountability of
Director to Public
Accounts
Committee.

28.—(1) The Director shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on— 30

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Council is required by this Act to prepare, 35

(b) the economy and efficiency of the Council in the use of its resources, 40

(c) the systems, procedures and practices employed by the Council for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the Council referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act, 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann. 45 50

(2) In the performance of his or her duties under this section, the Director shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

5 **29.**—(1) The Council may accept gifts of money, land or other Gifts.
property upon such trusts and conditions, if any, as may be specified
by the donor.

(2) The Council shall not accept a gift if the trusts or conditions attached to it would be inconsistent with its functions.

10 **30.**—(1) The Council may establish committees to assist and advise Committees.
it in relation to the performance of any of its functions.

(2) The Council may delegate to a committee any of its functions which, in its opinion, can be better or more conveniently performed by a committee.

15 (3) A committee established under this section may include or consist of persons who are not members of the Council but who have particular expertise in relation to the field of special educational needs.

(4) Members of a committee—

20 (a) shall be appointed subject to such terms and conditions, and

(b) may be paid by the Council such allowances (if any) for expenses incurred by them in the discharge of their functions,

as the Council may determine, subject to the consent of the Minister.

25 (5) The Council may, subject to this Act, determine the terms of reference and regulate, by standing orders or otherwise, the procedures and business of a committee including the filling of casual vacancies, but, subject to any such regulation, a committee may regulate its own procedures.

30 (6) A committee shall appoint, from time to time, a chairperson from among its members.

(7) The Director may—

(a) opt to be a member of a committee,

or

35 (b) in lieu of his or her opting to be such a member, may nominate, with that other's consent, another to be such a member,

and where the Director so opts or nominates another, the Director or the other person, as the case may be, shall be deemed to stand
40 appointed as a member of the committee but shall not be entitled to cast a vote in respect of any matter falling to be decided by the committee.

(8) A member of a committee may be removed by the Council at any time for stated reasons.

(9) The Council may at any time dissolve a committee established by it.

(10) The Council shall have regard to the desirability of such gender balance in the membership of a committee under this section as the Minister considers appropriate and determines, from time to time, when making appointments to a committee. 5

(11) A committee shall provide the Council with such information as the Council may from time to time require, in respect of the committee's activities and operation, for the purposes of the performance by the Council of its functions. 10

Annual report and information.

31.—(1) Subject to *subsection (2)*, the Council shall prepare and publish, in such form and manner as it considers appropriate, a report of its activities and proceedings under this Act.

(2) A report under *subsection (1)* shall be prepared—

(a) in the case of the first such report, at the end of 1 year after the establishment day, and 15

(b) thereafter, at the end of 1 year following the preparation of the preceding report.

(3) The Council shall provide the Minister with a copy of the report under *subsection (1)* and the Minister shall cause the report to be laid before each House of the Oireachtas. 20

(4) The Council shall provide the Minister with such information as the Minister may from time to time require.

Mediation.

32.—(1) The Council shall establish procedures whereby any dispute in relation to any matter that this Act provides may be the subject of an appeal may be resolved through mediation. 25

(2) The procedures referred to in *subsection (1)* shall provide—

(a) that a matter shall not be referred to mediation under the procedures otherwise than with the consent of the parties to the dispute, 30

(b) that any party to a dispute that is referred to mediation may withdraw from the mediation at any time he or she so wishes,

(c) that the mediation is conducted by a person who—

(i) is impartial, 35

(ii) has the appropriate skills required for the conduct of mediation of the type concerned and, in so far as practicable, appropriate knowledge of the educational needs of children with disabilities and of the various enactments relating to the education of such children, and 40

(iii) is appointed to be such a mediator with the consent of the parties concerned,

and

(d) for such other matters as are conducive to the parties to the dispute being inconvenienced in their use of the procedures.

5 (3) Before dealing with an appeal made to it under any provision of this Act (other than *section 36*), the Appeals Board shall give notice in writing to the parents concerned or the other person who is the appellant in the matter of the procedures that are available under this section for mediation to be conducted in relation to the issues, the subject of the appeal.

10 (4) The Appeals Board shall not deal with an appeal made to it under any provision of this Act (other than *section 36*) if the parents concerned or the other appellant in the matter opt to avail themselves or himself or herself of those procedures unless, having so opted, the parents or other appellant withdraw from the mediation.

15 (5) A statement or admission made by a person in the course of the conduct of a mediation under procedures referred to in *subsection (1)*—

(a) shall not be used in any subsequent mediation or in the hearing of any appeal under this Act,

20 and

(b) shall not be admissible as evidence against that person in any civil or criminal proceedings.

(6) An agreement that is reached by the parties concerned as a result of a mediation under procedures referred to in *subsection (1)*
25 shall be set down in writing and signed by those parties.

33.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act. Establishment day.

34.—(1) On the establishment day there shall stand established the Special Education Appeals Board (in this Act referred to as the “Appeals Board”) to hear and determine appeals made pursuant to this Act. Special Education Appeals Board.

(2) The Appeals Board may sit in divisions of itself to hear appeals.

35 (3) The Appeals Board shall be independent in the performance of its functions.

(4) The Appeals Board shall consist of a chairperson and such number of ordinary members as may be prescribed.

(5) The chairperson of the Appeals Board shall be appointed by the Government and shall be a practising solicitor or barrister of not
40 less than seven years standing.

(6) The ordinary members of the Appeals Board shall be appointed by the Minister.

(7) The term of office of the chairperson and the ordinary members of the Appeals Board shall be for such period as shall be
45 prescribed.

(8) The chairperson or an ordinary member of the Appeals Board may resign by letter addressed to the Minister.

(9) The chairperson of the Appeals Board may be removed from office by the Government.

(10) An ordinary member of the Appeals Board may be removed from office by the Minister. 5

(11) The chairperson and ordinary members of the Appeals Board shall be paid such remuneration (if any) and allowances (if any) as may be determined by the Minister with the consent of the Minister for Finance. 10

(12) The Appeals Board may, with the consent of the Minister given with the concurrence of the Minister for Finance, appoint such and so many persons to be employees of the Appeals Board as the Board considers necessary to assist the Board in the performance of its functions and each person so appointed shall hold office on such terms and receive such remuneration as the Appeals Board with the consent of the Minister for Finance determines. 15

(13) The Appeals Board shall determine its own procedures and, in doing so, shall, as far as practicable, adopt procedures which are informal. 20

Report of Appeals Board.

35.—(1) The Appeals Board shall submit a report of its activities and particulars of its accounts to the Minister at such intervals as the Minister directs.

(2) The Minister shall cause copies of a report under *subsection (1)* to be laid before each House of the Oireachtas. 25

Duty of health boards.

36.—(1) Where it appears to the Council that a health board could, by taking specified action, assist in the preparation or implementation of an education plan in respect of a particular child or assist more generally in the performance of the Council of its functions, then it may, by notice in writing, request the assistance of that board, specifying the action in question. 30

(2) Before making a request under *subsection (1)*, the Council shall consult with the board concerned.

(3) A board of which a request under *subsection (1)* is made shall comply with the request unless it considers that— 35

(a) the assistance concerned is not required,

(b) compliance with the request would not be compatible with its functions or duties or would unduly prejudice the performance of any of its functions, or

(c) having regard to the resources available to the board it is not reasonable for it to comply with the request. 40

(4) Where a board decides not to comply with a request it shall give notice in writing to the Council of that decision and the reasons therefor.

(5) The Council may appeal against a decision of the board referred to in *subsection (4)* to the Appeals Board. 45

(6) On the hearing of an appeal under *subsection (5)*, the Appeals Board may—

(a) allow the appeal and direct the board concerned to comply with the request, the subject of the appeal,

5 or

(b) dismiss the appeal.

(7) A health board shall comply with a direction given to it under *subsection (6)(a)*.

10 **37.—**(1) The Minister may make regulations prescribing any matter which is referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations or for the purposes of enabling any provision of this Act to have full effect. Regulations.

15 (2) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as practicable 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 previously done
20 thereunder.

38.—(1) The Minister may, in each financial year of the Council and of the Appeals Board, pay to the Council and the Appeals Board, out of moneys provided by the Oireachtas, a grant of such amount as he or she, with the consent of the Minister for Finance,
25 determines towards the expenses of the Council or the Appeals Board, as the case may be, in the performance of its functions. Grants to Council and Appeals Board.

39.—(1) A notice under this Act shall, subject to *subsection (2)*, be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways: Service of notices.

30 (a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

35 (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

(2) Where a notice under this Act is to be served on or given to a person who is the owner or occupier of land and the name of the
40 person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words the owner or, as the case may require, the occupier.

(3) For the purposes of this section, a company within the meaning of the Companies Acts, 1963 to 2001, shall be deemed to be ordinarily resident at its registered office, and every other body corporate
45 and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Expenses.

40.—(1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title and
commencement.

41.—(1) This Act may be cited as the Education for Persons with Disabilities Act, 2002. 5

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 10

SCHEDULE 1

MEMBERSHIP AND MEETINGS OF COUNCIL

Section 18.

1.—In this Schedule, unless the context otherwise requires, “member” means a member of the Council, including the chairperson.

5 2.—(1) As soon as practicable after its establishment, the Council shall provide itself with and retain in its possession a seal.

(2) The seal of the Council shall be authenticated by the signature of—

10 (a) the chairperson of the Council or other member of the Council authorised by the Council to act in that behalf, and

(b) an employee of the Council authorised by the Council to act in that behalf.

15 (3) Judicial notice shall be taken of the seal of the Council and every document purporting to be an instrument made by the Council and to be sealed with the seal of the Council (purporting to be authenticated in accordance with *subparagraph (2)*) shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

20 3.—(1) The Minister may at any time, for stated reasons, remove from office a member of the Council.

(2) The Council may at any time, with the consent of the Minister, for stated reasons, remove a member from office, other than the chairperson.

25 (3) A member (other than the chairperson) may at any time resign from office as a member by notice in writing to the chairperson and the resignation shall take effect on the date of the meeting of the Council next held after receipt by the Council of the notice.

30 (4) The chairperson may at any time resign from office as a member by notice in writing to the Director and the resignation shall take effect on the date of the meeting of the Council next held after receipt by the Director of the notice.

35 (5) A member who is absent from all meetings of the Council for 6 consecutive months, unless the absence was due to illness or was approved of by the Council, shall cease to be a member at the expiration of that period.

(6) The Minister, when appointing a member, shall specify the term of office of the member which shall not exceed 4 years.

40 (7) A member shall not serve more than 2 terms of office that are consecutive terms of office.

45 (8) Where a casual vacancy occurs among the members the Council shall, as soon as practicable, notify the Minister who shall, as soon as practicable, appoint a person to fill such a casual vacancy and a person so appointed shall, subject to this Schedule, hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for any other reason to hold office occasioned the casual vacancy.

4.—(1) The Council shall, from time to time, elect from among its members a deputy chairperson.

(2) The deputy chairperson shall hold office for such term as may be specified by the Council at the time of his or her appointment, unless—

5

(a) he or she resigns the office of deputy chairperson, or

(b) the Council by a resolution, of which not less than 7 days notice of the intention to propose is given to each member and for which not less than two thirds of the members vote, removes the deputy chairperson.

10

(3) The deputy chairperson may at any time resign from office by notice in writing to the Council and the resignation shall take effect on the date of the meeting of the Council next held after the receipt by the Council of the notice.

(4) Where, at an election of the deputy chairperson, 2 or more persons receive an equal number of votes, it shall be determined by lot which of those persons shall be deputy chairperson.

5.— (1) The Minister shall fix the date, time and place of the first meeting of the Council.

(2) The Council shall hold at least 6 meetings in each year and such and so many other meetings and at such times as the chairperson may determine.

(3) The quorum for a meeting of the Council shall be 4.

(4) At least 3 days before a meeting of the Council notice of the time and place of the meeting shall be sent to each member of the Council signed—

25

(a) by the Director or chairperson, or

(b) if the meeting is convened by members, by those members.

(5) If the meeting is convened by members, the notice convening the meeting shall specify the business to be transacted at that meeting.

30

(6) At a meeting of the Council—

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

(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 the chairperson of the meeting, or

35

(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 who are present shall choose one of their number to preside at that meeting.

40

6.— (1) Minutes of the proceedings of all meetings of the Council shall be drawn up and entered in a book kept for that purpose and such minutes shall be signed by the chairperson of the next subsequent meeting.

45

(2) The names of all members present at a meeting of the Council shall be recorded in the minutes of the proceedings of the meeting.

5 (3) At a meeting of the Council every act of the Council and every
question coming before the Council shall be determined by a
majority of the votes of members (including the chairperson) present
and voting in relation to the act or question and, in the case of an
equal division of votes on any act or question arising at a meeting of
the Council (other than the election of the chairperson or deputy
chairperson), the chairperson or other person presiding at that meet-
10 ing shall have a second or casting vote.

7.—Subject to *paragraph 5(3)*, the Council may act notwithstanding one or more than one vacancy among its members or any deficiency in the appointment of a member which may subsequently be discovered.

15 8.—Save as is otherwise provided by any enactment, including this Act, the Council may make, from time to time, such standing orders as it thinks fit for the regulation of its proceedings and may amend or revoke such standing orders.

SCHEDULE 2

Section 22.

THE DIRECTOR

1.—The Director shall perform his or her functions subject to such policies as may be determined from time to time by the Council and shall be answerable to the Council for the efficient and effective management of the Council and for the due performance of his or her functions. 5

2.—(1) The Director may delegate any of his or her functions to an employee of the Council, unless they are functions delegated to the Director by the Council and they have been so delegated subject to the condition that they shall not be sub-delegated, and the employee concerned shall be accountable to the Director for the performance of the functions so delegated. 10

(2) Notwithstanding any such delegation, the Director shall at all times remain accountable to the Council for the performance of the functions so delegated. 15

3.—The Director shall not hold any other office or position without the consent of the Council.

4.—The Director shall hold office subject to such terms and conditions (including terms and conditions relating to remuneration, fees and allowances for expenses) as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine. 20

5.—The Director shall not be a member of the Council, but he or she may, in accordance with procedures established by the Council, attend meetings of the Council and shall be entitled to speak to and advise such meetings. 25