



**AN BILLE OIDEACHAIS (FORÁLACHA)
ILGHNÉITHEACHA 2007
EDUCATION (MISCELLANEOUS PROVISIONS) BILL 2007**

EXPLANATORY MEMORANDUM

Introduction

The purpose of the Bill is to amend section 29 of the Education Act 1998 following the recommendations of the Task Force on Student Behaviour in Second Level Schools. Section 29 of the Education Act 1998 provides that an appeal may be made to the Secretary General of the Department of Education and Science against the decision of a board of management, or a person acting on behalf of the board, to

- (i) permanently exclude a pupil
- (ii) suspend a pupil for a period to be prescribed for this purpose or
- (iii) refuse to enrol a child.

The Bill will regulate the factors which an appeals committee must consider in appeals relating to expulsion and suspensions. The Bill also provides for certain changes in the functions performed by the Inspectorate under section 13 of the Education Act 1988, makes provision with regard to access to certain information under section 53 of that Act and provides for the transfer of certain lands and property of the Crawford Art Gallery in Cork. The Bill will also make other consequential amendments to the Education Act 1998 and the Education (Welfare) Act 2000.

PRELIMINARY AND GENERAL

Section 1 deals with the definitions.

AMENDMENT OF EDUCATION ACT 1998

Section 2 amends section 2 of the Education Act 1998 to include a reference to the Education (Welfare) Act 2000.

Section 3 amends section 13 of the Education Act 1998 to reflect the changing role of the Inspectorate. The Bill will remove the requirement in section 13 of the Education Act which requires the Inspectorate of the Department to perform certain functions relating

to school examinations and psychological assessments. These functions are now performed by the State Examinations Commission and the National Council for Curriculum and Assessment, the National Educational Psychological Service and the National Council for Special Education, respectively. The new subsections allow the Chief Inspector to delegate functions with the consent of the Minister and is in accordance with evolving public management practices.

Section 4 makes a number of procedural changes to section 29 of the Education Act 1998.

Firstly, it amends section 29(4) to allow an appeals committee to consider a range of factors in appeals relating to expulsion and suspension: The factors are: the educational interests of the student taking the appeal; the educational interests of other students in the school, the nature, scale and extent of the student's behaviour, the reasonableness of efforts made by the school; the safety, health and welfare of the teachers and students; the school's policies, code of behaviour and extent to which it complies with any issued guidelines; statutory duties of schools and any other relevant matters.

Secondly, it extends section 29(1)(c) to encompass situations in which a child has been refused enrolment to an all-Irish division or class of a school.

Thirdly, it makes provision for the Minister to determine procedures under which the Secretary General may request information from the parties to an appeal and require submission of information within stipulated time-frames.

Fourthly, it allows for an appeals committee to refuse to hear appeals which are frivolous, vexatious, an abuse of process and to draw inferences from the failure of parties to an appeal to comply with requirements made of it.

Fifthly, it replaces section 29(4)(A) — which was inserted by section 26 of the Education (Welfare) Act 2000 — to instead make provision for both the National Educational Welfare Board (NEWB) and/or the National Council for Special Education (NCSE) to make submissions to an appeals committee.

Section 4 also makes provision to ensure that an appeals committee does not exercise an appellate function from a decision made under section 10 of the Education for Persons with Special Educational Needs Act 2004 and vice versa.

Section 5 amends Section 53 of the Education Act 1998 to extend to the State Examinations Commission (SEC) the power to regulate access to information which would enable the compilation of school league tables based on students' academic performance and information relating to the identity of examiners.

AMENDMENT OF EDUCATION (WELFARE) ACT 2000

Section 6 makes a number of technical amendments to sections 26 and 27 of the Education (Welfare) Act 2000, which arise as a consequence of the amendments to the Education Act 1998 proposed in this Bill.

MISCELLANEOUS

Section 7 will also provide the Minister with power to order the transfer of the lands and property of the Crawford Art Gallery in Cork from the City of Cork vocational education committee to the Commissioners for Public Works (Office of Public Works). This is to overcome technical difficulties which would arise if the conveyance was effected by deed.

Section 8 is a standard provision to facilitate the meeting of expenses incurred in the administration of the legislation if enacted, and does not have the effect of making the Bill a Money Bill.

Section 9 deals with the short title, commencement, collective citations and construction.

FINANCIAL IMPLICATIONS

It is not expected that the Bill, when enacted, will give rise to any additional staffing and financial costs.

*An Roinn Oideachais agus Eolaíochta,
Eanáir 2007.*