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Explanatory Memorandum](#)

**AN BILLE OIDEACHAIS (LEASÚ), 2012
EDUCATION (AMENDMENT) BILL 2012**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short title and collective citations.
 2. Interpretation.
 3. Expenses.
 4. Amendment of section 2 of Act of 1998.
 5. Amendment of section 7 of Act of 1998.
 6. Substitution of sections 23 and 24 of Act of 1998.
 7. Repeal of section 32 of Act of 1998.
 8. Amendment of section 30 of Act of 2001.
 9. Amendment of section 33 of Act of 2001.
 10. Amendment of section 38 of Act of 2001.
 11. Repeals.
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ACTS REFERRED TO

Education Act 1998	1998, No. 51
Education Acts 1878 to 2007	
Education for Persons with Special Educational Needs Act 2004	2004, No. 30
Health Act 2004	2004, No. 42
Scientific and Technological Education (Investment) Fund (Amendment) Act 1998	1998, No. 53
Scientific and Technological Education (Investment) Fund Act 1997	1997, No. 46
Teaching Council Act 2001	2001, No. 8
Teaching Council Acts 2001 and 2006	
Vocational Education Committee Acts 1930 to 2006	



**AN BILLE OIDEACHAIS (LEASÚ), 2012
EDUCATION (AMENDMENT) BILL 2012**

BILL

entitled

5 AN ACT TO AMEND THE EDUCATION ACT 1998; TO
AMEND THE TEACHING COUNCIL ACT 2001; TO
REPEAL THE SCIENTIFIC AND TECHNOLOGICAL
EDUCATION (INVESTMENT) FUND ACT 1997 AND THE
10 SCIENTIFIC AND TECHNOLOGICAL EDUCATION
(INVESTMENT) FUND (AMENDMENT) ACT 1998; AND
TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act may be cited as the Education (Amendment) Act 2012. Short title and collective citations.

15 (2) The Education Acts 1878 to 2007 and *sections 4, 5, 6 and 7* and this subsection may be cited together as the Education Acts 1878 to 2012.

(3) The Teaching Council Acts 2001 and 2006 and *sections 8, 9 and 10* and this subsection may be cited together as the Teaching Council Acts 2001 to 2012.
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2.—In this Act—

Interpretation.

“Act of 1998” means the Education Act 1998;

“Act of 2001” means the Teaching Council Act 2001;

“Minister” means the Minister for Education and Skills.

25 3.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas. Expenses.

4.—Section 2 of the Act of 1998 is amended, in subsection (1)— Amendment of section 2 of Act of 1998.

30 (a) by substituting for the definition of “educational disadvantage” the following definition:

“ ‘educational disadvantage’ means the impediments to education arising from social or economic disadvantage which prevent students from deriving appropriate benefit from education in schools;”,

- (b) by substituting for the definition of “Principal” the following definition: 5

“ ‘Principal’ means a person appointed to be a Principal;”, and

- (c) in the definition of “support services”—

(i) by deleting paragraph (f), and 10

- (ii) by substituting for paragraph (n) the following:

“(n) such other services as are specified by this Act or considered appropriate by the Minister, or both, but which shall not include health and personal social services within the meaning of 15 the Health Act 2004;”.

Amendment of section 7 of Act of 1998.

5.—Section 7 of the Act of 1998 is amended by repealing subsections (5) and (6) (inserted by section 40 of the Education for Persons with Special Educational Needs Act 2004).

Substitution of sections 23 and 24 of Act of 1998.

6.—The Act of 1998 is amended by substituting for sections 23 and 24 the following: 20

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

(a) be responsible for the day-to-day management of the school, including guidance and direction of the teachers and other staff of the school, and be accountable to the board of the school for that management, 25 30

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

(c) be responsible together with the board, parents of students and the teachers, 35 for the creation in the school, of an environment which is supportive of learning among the students and which promotes the professional development of the teachers, 40

(d) under the direction of the board, and in consultation with the teachers, the parents and, to the extent appropriate to their age and experience, the students, set objectives for the school 45 and monitor the achievement of those objectives, and

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

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

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

(b) regulations made under section 33.

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

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

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

Provisions relating to staff.

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

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

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

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

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

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(4) The Principal, a teacher or other member of staff of a recognised school, appointed prior to, and holding office immediately before, the commencement of this section, continues in office after such commencement as if appointed under this section. 5

(5) (a) Notwithstanding subsection (3), a teacher or other member of staff of a recognised school who is to be remunerated out of monies provided by the Oireachtas may be redeployed to another recognised school in accordance with redeployment procedures determined from time to time by the Minister with the concurrence of the Minister for Public Expenditure and Reform following consultation with bodies representative of patrons, recognised school management organisations and with any recognised trade union and staff association representing teachers or other staff as appropriate. 10 15 20

(b) A teacher or other member of staff redeployed in accordance with paragraph (a) shall, in accordance with the redeployment procedures determined under that paragraph, become an employee of— 25

(i) the board of, or 30

(ii) the vocational education committee which maintains,

the recognised school to which he or she is redeployed.

(6) Where all or part of the remuneration or superannuation, or both, of the Principal, a teacher or another member of staff of a recognised school is paid or is to be paid out of monies provided by the Oireachtas, such remuneration and superannuation shall be determined from time to time by the Minister, with the concurrence of the Minister for Public Expenditure and Reform. 35 40

(7) For the purpose of implementing section 30 of the Act of 2001—

(a) the Teaching Council shall provide the Minister and each vocational education committee with information held by it on the register in respect of each registered teacher, and 45

(b) on and after commencement of that section, the Teaching Council shall, at the request of the Minister or a vocational education committee, 50

provide the Minister or vocational education committee, as appropriate, with the registration details of any person—

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

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

(iii) who is removed from the register in accordance with section 34 or 35 of the Act of 2001, or

15 (iv) whose registration is corrected in accordance with section 36 of the Act of 2001.

20 (c) Notwithstanding section 30 of the Act of 2001, the Minister, where he or she is satisfied that it is necessary to facilitate—

(i) the urgent, temporary or occasional staffing needs of schools,

25 (ii) the continued established tenure of a person in a teaching position under an existing contract of employment, or

30 (iii) the employment of a person whose application for registration under section 31 of the Act of 2001 is pending at the time of his or her appointment to a teaching position,

may from time to time prescribe both—

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

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(II) the conditions attaching to the employment of such a person where he or she is to be remunerated out of monies provided by the Oireachtas. 5

(8) Notwithstanding of the Act of 2001, the Minister shall consider the following in satisfying himself or herself for the purposes of paragraph (c) of subsection (7):

- (a) the desirability of ensuring that, in so far as possible, persons employed in teaching positions in a recognised school are registered teachers; 10
- (b) the need to facilitate the urgent, temporary or occasional staffing needs of schools; 15
- (c) the desirability of minimising disruption to the education of students; and
- (d) the qualifications and, if any, the teaching experience of a person referred to in subparagraphs (I) and (II) of paragraph (c) of subsection (7). 20

(9) Without prejudice to the generality of paragraph (c) of subsection (7), regulations made under this section may provide for one or more than one of the following: 25

- (a) a requirement that a person referred to in subparagraphs (I) and (II) of paragraph (c) of subsection (7) be employed in the place of a registered teacher in a position remunerated out of monies provided by the Oireachtas if, and only if, no registered teacher is available to take up the position in question; 30 35
- (b) a limit on the length of time for which such a person may be employed in a teaching position;
- (c) a requirement that such a person has certain minimum qualifications before he or she can be employed; 40
- (d) a requirement that the Minister consent to the employment of such a person;
- (e) a limit on the subjects or purposes, or both, for which such a person may be employed; and 45
- (f) a requirement that a school retain and furnish to the Minister evidence that it has been unable to employ a registered teacher in the place of a registered teacher in a recognised school. 50

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

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

20 (12) In applying subsection (10) to the Principal, teachers and other staff of a school which is established or maintained by a vocational education committee the board of the recognised school concerned shall comply with the provisions of the Vocational Education Committee Acts 1930 to 2006 in relation to suspension and dismissal.

25 (13) In this section—

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

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

and

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

7.—Section 32 of the Act of 1998 is repealed. Repeal of section 32 of Act of 1998.

40 8.—Section 30 of the Act of 2001 is amended by substituting “Subject to section 24(7) (inserted by *section 6* of the *Education (Amendment) Act 2012*) of the Education Act 1998, a person who” for “A person who”. Amendment of section 30 of Act of 2001.

45 9.—The Act of 2001 is amended by substituting the following section for section 33: Amendment of section 33 of Act of 2001.

“Renewal of Registration. 33.—(1) Registration shall be valid for 12 months from the date of registration.

(2) The Council may, subject to the consent of the Minister, make regulations under section 4 for the purposes of renewal of registration of persons registered as teachers under this Act, which shall provide for, but not necessarily be limited to, all or any of the following: 5

- (a) the form and manner in which an application for renewal shall be made;
- (b) the documentary and other evidence which shall accompany an application for renewal; 10
- (c) the conditions for renewal of registration (including the issuing of notice of renewal of registration), which may include, but not necessarily be limited to, all or any of the following in relation to the applicant for renewal: 15
 - (i) satisfactory completion of programmes of continuing education and training accredited under section 39; 20
 - (ii) evidence of character including but not limited to declarations by the applicant and An Garda Síochána; and 25
 - (iii) teaching experience.

(3) Subject to subsection (2) and to the payment of such renewal fee as may be prescribed under section 23, a registered teacher may apply for renewal of his or her registration for a further period of 12 months. 30

(4) An application for renewal of registration shall be made before the expiration of the period of validity of registration.

(5) The term of a renewal of registration shall take effect from the expiration of the previous registration. 35

(6) On receipt of an application for renewal of registration and the prescribed fee, the Council shall, as soon as practicable, send to the applicant registered teacher a receipt stating that the fee has been received. 40

(7) Where the Council is satisfied that the applicant complies with the provisions of this section and other provisions of this Act, the applicant shall be registered as a teacher for a further period of 12 months and the Council shall notify the person concerned in accordance with regulations made under subsection (2). 45

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(8) A receipt issued by the Council under subsection (6), and a notice issued by it under subsection (7) shall, without proof of the signature of the person purporting to sign the receipt or notice or that such person was the proper person so to sign, be evidence in any legal proceedings that, as the case may be, the payment was made or the registration was renewed for the period specified in the notice, unless the contrary is shown.”.

10 **10.**—The Act of 2001 is amended by substituting the following paragraph for paragraph (a) of subsection (1) of section 38: Amendment of section 38 of Act of 2001.

“(a) review, and where appropriate accredit, the programmes of teacher education and training provided by institutions of higher education.”.

15 **11.**—The Scientific and Technological Education (Investment) Fund Act 1997 and the Scientific and Technological Education (Investment) Fund (Amendment) Act 1998 are repealed. Repeals.



**AN BILLE OIDEACHAIS (LEASÚ), 2012
EDUCATION (AMENDMENT) BILL 2012**

EXPLANATORY AND FINANCIAL MEMORANDUM

Introduction

This Bill provides for the amendment of the Education Act 1998 and the amendment of the Teaching Council Act 2001 in relation to a number of education matters: clarification on the delivery of speech therapy services to students; the abolition of the Educational Disadvantage Committee; provision that procedures for the appointment, suspension, dismissal and remuneration of teachers and other staff will be put in place following consultation rather than requiring agreement; arrangements for the employment, in certain exceptional and limited circumstances, of persons who are not registered teachers under the Teaching Council Act 2001, and provision for the Teaching Council to make regulations to apply certain conditions to the renewal of registration of teachers. The Bill provides for the repeal of the Scientific and Technological Education (Investment) Fund Act 1997 and the Scientific and Technological Education (Investment) Fund (Amendment) Act 1998, and also provides for other related matters.

Main Provisions

Section 1 provides for the short title, and collective citations of the Bill.

Section 2 contains the definitions of certain terms as they apply in the Bill.

Section 3 provides that the expenses incurred by the Minister for Education and Skills in the administration of the legislation shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Section 4 provides for three amendments to the definitions contained in section 2(1) of the Education Act 1998.

Section 5 provides for a technical amendment of section 7 of the Education Act 1998 consequent to the provision in section 4 of the Bill for the amendment of the definition of ‘support services’ in section 2 of the Education Act 1998.

Section 6 provides for a revised text of sections 23 and 24 of the Education Act 1998 to provide for the suspension and dismissal of teachers, including principal teachers and other staff in accordance with procedures put in place by the Minister following consultation with the education partners and also to remove appointment procedures from the requirement for agreement. This section also makes provision for the employment, in certain exceptional and limited circumstances, of persons who are not registered teachers under the Teaching Council Act 2001.

Section 7 provides for the repeal of section 32 of the Education Act 1998 and will have the effect of abolishing the Educational Disadvantage Committee.

Section 8 provides for a technical amendment of section 30 of the Teaching Council Act 2001, which is consequential to the amendment of section 24 of the 1998 Act provided for in section 6 of the Bill.

Section 9 provides for the amendment of section 33 of the Teaching Council Act 2001. It provides that the Teaching Council may make regulations for the purposes of renewal of registration which may provide for the form and manner in which an application for renewal is made; the documentary and other evidence required to be submitted with the application; and the conditions for renewal of registration, including completion of programmes of continuing education and training, evidence of character and teaching experience

Section 10 provides for the amendment of section 38 of the Teaching Council Act 2001 to clarify the fact that the Teaching Council may accredit programmes of teacher education and training provided by institutions of higher education and training, where it is appropriate to do so.

Section 11 provides for the repeal of the Scientific and Technological Education (Investment) Fund Act 1997 and the Scientific and Technological Education (Investment) Fund (Amendment) Act 1998 as the fund has now been fully spent.

Financial implications of the Bill

There will be no direct costs to the Exchequer arising from this Bill.

The amendment of section 2 of the Education Act 1998 will not give rise to Exchequer expenditure over and above that normally associated with the provision of speech therapy services.

There will be no direct costs arising from the substitution of sections 23 and 24 of the Education Act 1998. The new provisions in section 24 in relation to redeployment are for the purpose of ensuring there is statutory certainty in relation to any arrangements that are put in place to ensure that teachers surplus in schools can be redeployed to other schools. Effective redeployment is essential in meeting budgetary targets on pay expenditure and the undertakings given under the EU/IMF arrangements. The provisions in relation to the employment in certain exceptional circumstances, of unregistered teachers, will not give rise to Exchequer expenditure over and above that normally associated with the payroll costs of schools.

There will be no cost in relation to the abolition of the Educational Disadvantage Committee.

No immediate costs arise from the amendment of section 33 of the Teaching Council Act 2001. This is an enabling provision to allow that Council to apply conditionality on teachers at point of renewal of registration. The imposition of any conditions, by means of regulations made by the Council, would require the consent of the Minister.

There will be no cost in relation to the amendment of Section 38 of the Teaching Council Act 2001, which serves to clarify the Council's function in accrediting teacher education programmes, where it is appropriate to do so.

There will be no direct costs to the Exchequer arising from the repeal of the Scientific and Technological Education (Investment) Fund Act 1997 and the Scientific and Technological Education (Investment) Fund (Amendment) Act 1998 as they are being repealed in order to end the requirement for the production of annual reports and accounts for a fund which is fully expended.

*Department of Education and Skills,
January, 2012.*