

EDUCATION ACT, 1998

(selection)

Number 51 of 1998

EDUCATION ACT, 1998

AN ACT TO MAKE PROVISION IN THE INTERESTS OF THE COMMON GOOD FOR THE EDUCATION OF EVERY PERSON IN THE STATE, INCLUDING ANY PERSON WITH A DISABILITY OR WHO HAS OTHER SPECIAL EDUCATIONAL NEEDS, AND TO PROVIDE GENERALLY FOR PRIMARY, POST-PRIMARY, ADULT AND CONTINUING EDUCATION AND VOCATIONAL EDUCATION AND TRAINING; TO ENSURE THAT THE EDUCATION SYSTEM IS ACCOUNTABLE TO STUDENTS, THEIR PARENTS AND THE STATE FOR THE EDUCATION PROVIDED, RESPECTS THE DIVERSITY OF VALUES, BELIEFS, LANGUAGES AND TRADITIONS IN IRISH SOCIETY AND IS CONDUCTED IN A SPIRIT OF PARTNERSHIP BETWEEN SCHOOLS, PATRONS, STUDENTS, PARENTS, TEACHERS AND OTHER SCHOOL STAFF, THE COMMUNITY SERVED BY THE SCHOOL AND THE STATE; TO PROVIDE FOR THE RECOGNITION AND FUNDING OF SCHOOLS AND THEIR MANAGEMENT THROUGH BOARDS OF MANAGEMENT; TO PROVIDE FOR AN INSPECTORATE OF SCHOOLS; TO PROVIDE FOR THE ROLE AND RESPONSIBILITIES OF PRINCIPALS AND TEACHERS; TO ESTABLISH THE NATIONAL COUNCIL FOR CURRICULUM AND ASSESSMENT AND TO MAKE PROVISION FOR IT, AND TO PROVIDE FOR RELATED MATTERS. [23rd December, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1998 53 1

Short title and commencement.

1.—(1) This Act may be cited as the Education Act, 1998.

(2) Subject to *subsection (3)*, this Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed either generally or with reference to any particular purpose, function, provision or class of school, and different days may be so fixed for different purposes, functions or provisions of this Act or different classes of schools.

(3) This Act shall come into operation in respect of any purpose, function, provision or class of school, with reference to which the Minister has not made an order under *subsection (2)*, two years from the date of its passing.

(4) As soon as practicable after the end of the first and second years following the date of passing of this Act, the Minister shall prepare a report on the implementation of the Act and shall cause copies of the report to be laid before each House of the Oireachtas.

(5) The Intermediate Education (Ireland) Acts, 1878 to 1924 and this Act may be cited together as the Education Acts, 1878 to 1998, and shall be construed together as one.

1998 53 2

Interpretation.

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

"articles of management" means any instruments, relating to the operation and management of schools, as are in operation on the commencement of this Act and as shall be agreed from time to time by patrons of schools, national associations of parents and recognised trade unions and staff associations representing teachers;

"board" means a board of management established under *section 14*;

"centre for education" means a place, other than a school or a place providing university or other third level education, where adult or continuing education or vocational education or training, is provided and which is designated for that purpose under *section 10(4)*;

"characteristic spirit" means the characteristic spirit referred to in *section 15 (2) (b)*;

"Council" means the body established under *section 39*;

"curriculum" shall be construed in accordance with *section 30*;

"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 judgement or which results in disturbed behaviour;

"educational disadvantage" has the meaning assigned by *section 32(9)*;

"examination" has the meaning assigned to it by *section 49*;

"functions" includes powers and duties;

"Gaeltacht area" means an area for the time being determined to be a Gaeltacht area by order made under *section 2* of the Ministers and Secretaries (Amendment) Act, 1956;

"Inspector" means a member of the Inspectorate;

"Inspectorate" means the Inspectorate appointed under *section 13*;

"Minister" means the Minister for Education and Science;

"national association of parents" means an association or other body of persons established by parents with objects which include representing the views and interests of parents with regard to education and assisting parents in exercising their rights and role in the process of the education of their children, that is—

(a) established and organised on a national basis and has a membership distributed over a substantial part of the State, and

(b) for the time being recognised by the Minister for the purposes of this Act, including the National Parents Council - Primary and the National Parents Council (Post-Primary) Limited, being bodies for the time being so recognised;

"National Council for Curriculum and Assessment" means the body established in accordance with *section 39*;

"parent" includes a foster parent, a guardian appointed under the Guardianship of Children Acts, 1964 to 1997, or other person acting in *loco parentis* who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter;

"parents' association" means an association to which *section 26* applies;

"patron" has the meaning assigned to it by *section 8*;

"prescribed" means prescribed by regulations made by the Minister and cognate words shall be construed accordingly;

"Principal" means a person appointed under *section 23*;

"recognised school" means a school which is recognised by the Minister in accordance with *section 10*;

"recognised school management organisations" means those bodies as may be established for the purpose of representing the interests of persons engaged in the management of schools and which are recognised by the Minister for the purposes of this Act;

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

"school" means an establishment which—

- (a) provides primary education to its students and which may also provide early childhood education, or
- (b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training,

but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by a health board in accordance with the Health Acts, 1947 to 1996, or the Child Care Act, 1991;

"school plan" has the meaning assigned to it by *section 21 (1)*;

"school week" means the period of time during a week when a school is open for the reception of students;

"school year" means such twelve month period commencing on a day that falls between the first day of July and the first day of October in any year as may be prescribed from time to time by the Minister, either generally or in respect of any school or class of school;

"special educational needs" means the educational needs of students who have a disability and the educational needs of exceptionally able students;

"student", in relation to a school, means a person enrolled at the school and in relation to a centre for education, means a person registered as a student in that centre;

"support services" means the services which the Minister provides to students or their parents, schools or centres for education in accordance with *section 7* and shall include any or all of the following:

- (a) assessment of students;
- (b) psychological services;
- (c) guidance and counselling services;
- (d) technical aid and equipment, including means of access to schools, adaptations to buildings to facilitate access and transport, for students with special needs and their families;
- (e) provision for students learning through Irish sign language or other sign language, including interpreting services;
- (f) speech therapy services;
- (g) provision for early childhood, primary, post-primary, adult or continuing education to students with special needs otherwise than in schools or centres for education;
- (h) teacher welfare services;
- (i) transport services;
- (j) library and media services;

- (k) school maintenance services;
- (l) examinations provided for in *Part VIII*;
- (m) curriculum support and staff advisory services, and
- (n) such other services as are specified by this Act or considered appropriate by the Minister;

"teacher" includes a Principal;

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

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

(b) In this Act a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

(3) A reference in this Act to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

1998 53 3

Expenses.

3.—Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be approved of by the Minister for Finance, be paid out of monies provided by the Oireachtas.

1998 53 4

Service of notices.

4.—Where a notice, direction or other document is authorised or required by or under this Act or regulations made thereunder to be served on a person, it shall, unless otherwise specified in this Act, be addressed to the person and shall be served on or given to the person in one of the following ways—

(a) where it is addressed to the person by name, by delivering it to the person, or

(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, or

(c) by sending it by ordinary prepaid post addressed to the person 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.

1998 53 5

Laying of regulations and orders.

5.—Every regulation and every order made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or

order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

1998 53 6

Objects of Act.

6.—Every person concerned in the implementation of this Act shall have regard to the following objects in pursuance of which the Oireachtas has enacted this Act:

(a) to give practical effect to the constitutional rights of children, including children who have a disability or who have other special educational needs, as they relate to education;

(b) to provide that, as far as is practicable and having regard to the resources available, there is made available to people resident in the State a level and quality of education appropriate to meeting the needs and abilities of those people;

(c) to promote equality of access to and participation in education and to promote the means whereby students may benefit from education;

(d) to promote opportunities for adults, in particular adults who as children did not avail of or benefit from education in schools, to avail of educational opportunities through adult and continuing education;

(e) to promote the right of parents to send their children to a school of the parents' choice having regard to the rights of patrons and the effective and efficient use of resources;

(f) to promote best practice in teaching methods with regard to the diverse needs of students and the development of the skills and competences of teachers;

(g) to promote effective liaison and consultation between schools and centres for education, patrons, teachers, parents, the communities served by schools, local authorities, health boards, persons or groups of persons who have a special interest in, or experience of, the education of students with special educational needs and the Minister;

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

(i) to contribute to the realisation of national policy and objectives in relation to the extension of bi-lingualism in Irish society and in particular the achievement of a greater use of the Irish language at school and in the community;

(j) to contribute to the maintenance of Irish as the primary community language in Gaeltacht areas;

(k) to promote the language and cultural needs of students having regard to the choices of their parents;

(l) to enhance the accountability of the education system, and

(m) to enhance transparency in the making of decisions in the education system both locally and nationally.

1998 53 7

Functions of Minister.

7.—(1) Each of the following shall be a function of the Minister under this Act:

(a) to ensure, subject to the provisions of this Act, that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person,

(b) to determine national education policy, and

(c) to plan and co-ordinate—

(i) the provision of education in recognised schools and centres for education, and

(ii) support services.

(2) Without prejudice to the generality of *subsection (1)*, each of the following shall be a function of the Minister:

(a) to provide funding to each recognised school and centre for education and to provide support services to recognised schools, centres for education, students, including students who have a disability or who have other special educational needs, and their parents, as the Minister considers appropriate and in accordance with this Act;

(b) to monitor and assess the quality, economy, efficiency and effectiveness of the education system provided in the State by recognised schools and centres for education, having regard to the objects provided for in *section 6* and to publish, in such manner as the Minister considers appropriate, information relating to such monitoring and assessment;

(c) to lease land or buildings to any person or body of persons for the purpose of establishing a school without prejudice to the establishment by patrons of schools which are situated on land or in buildings which are not leased to them by the Minister, the extension and further development of such schools when established and the recognition of such schools in accordance with *section 10*;

(d) to provide support services through Irish to recognised schools which provide teaching through Irish and to any other recognised school which requests such provision;

(e) to perform such other functions as are specifically provided for by this Act or any other enactment, and

(f) to do all such acts and things as may be necessary to

further the objects for which this Act is enacted.

(3) The Minister shall have all such powers as are necessary or expedient for the purpose of performing his or her functions.

(4) In carrying out his or her functions, the Minister—

(a) shall have regard to—

- (i) the resources available,
 - (ii) the provision for education and training made by other agencies with funds provided by the Oireachtas,
 - (iii) the need to reflect the diversity of educational services provided in the State, and
 - (iv) the practices and traditions relating to the organisation of schools or groups of schools existing at the commencement of this Part and the right of schools to manage their own affairs in accordance with this Act and any charters, deeds, articles of management or other such instruments relating to their establishment or operation,
- and

(b) shall make all reasonable efforts to consult with patrons, national associations of parents, parents' associations in schools, recognised school management organisations, recognised trade unions and staff associations representing teachers and such other persons who have a special interest in or knowledge of matters relating to education, including persons or groups of persons who have a special interest in, or experience of, the education of students with special educational needs, as the Minister considers appropriate.

1998 53 8

Patron of school.

8.— (1) (a) The person who, at the commencement of this section, is recognised by the Minister as the patron of a primary school, and

(b) the persons who, at the commencement of this section, stand appointed as trustees or as the board of governors of a post-primary school and, where there are no such trustees or such board, the owner of that school,

shall be deemed to be the patron for the purposes of this Act and the Minister shall enter his, her or their name, as appropriate, in a register kept for that purpose by the Minister.

(2) In any case other than that provided in *subsection* (1), the patron of a recognised school shall be the person who requested recognition of the school or a nominee of such person and the name of that person shall be entered in the register.

(3) The Minister may amend the register in respect of any school on the application of the person who stands for the time

being registered as the patron or of the successor to that person.

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

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

(6) The patron of a school shall carry out the functions and exercise the powers conferred on the patron by this Act and such other functions and powers as may be conferred on the patron by any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school.

(7) In this section—

"person" includes a body of persons;

"school" includes a proposed school.

1998 53 9

Functions of a school.

9.—A recognised school shall provide education to students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to—

(a) ensure that the educational needs of all students, including those with a disability or other special educational needs, are identified and provided for,

(b) ensure that the education provided by it meets the requirements of education policy as determined from time to time by the Minister including requirements as to the provision of a curriculum as prescribed by the Minister in accordance with *section 30*,

(c) ensure that students have access to appropriate guidance to assist them in their educational and career choices,

(d) promote the moral, spiritual, social and personal development of students and provide health education for them, in consultation with their parents, having regard to the characteristic spirit of the school,

(e) promote equality of opportunity for both male and female students and staff of the school,

(f) promote the development of the Irish language and traditions, Irish literature, the arts and other cultural matters,

(g) ensure that parents of a student, or in the case of a student who has reached the age of 18 years. the student. have

access in the prescribed manner to records kept by that school relating to the progress of that student in his or her education,

(h) in the case of schools located in a Gaeltacht area, contribute to the maintenance of Irish as the primary community language,

(i) conduct its activities in compliance with any regulations made from time to time by the Minister under *section 33*,

(j) ensure that the needs of personnel involved in management functions and staff development needs generally in the school are identified and provided for,

(k) establish and maintain systems whereby the efficiency and effectiveness of its operations can be assessed, including the quality and effectiveness of teaching in the school and the attainment levels and academic standards of students,

(l) establish or maintain contacts with other schools and at other appropriate levels throughout the community served by the school, and

(m) subject to this Act and in particular *section 15 (2) (d)*, establish and maintain an admissions policy which provides for maximum accessibility to the school.

1998 53 10

Recognition of schools.

10.—(1) On a request being made for that purpose, the Minister may from time to time designate a school or a proposed school to be a school recognised for the purposes of this Act.

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

(a) the number of students who are attending or are likely to attend the school is such or is likely to be such as to make the school viable,

(b) in the case of a proposed school, and having regard to the desirability of diversity in the classes of school operating in the area likely to be served by the school, the needs of students attending or likely to attend the school cannot reasonably be met by existing schools,

(c) the patron undertakes that the school shall provide the curriculum as determined in accordance with *section 30*,

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

(e) the school complies, or in the case of a proposed school shall comply, with health, safety and building standards as are determined by law and any further such standards as are determined from time to time by the Minister, and

(f) the patron agrees that the school shall operate in

accordance with such regulations as may be made by the Minister from time to time under *section 33* and with this Act and with any other terms and conditions as may reasonably be attached to recognition by the Minister.

(3) A school that, on the commencement of this section, is in receipt of funds provided by the Oireachtas in respect of—

- (a) the education activities for students of that school, or
- (b) the remuneration of teachers in that school,

shall be deemed to be a school recognised in accordance with this section.

(4) The Minister may from time to time designate a place to be a centre for education.

1998 53 11

Withdrawal of recognition.

11.—(1) Where the Minister is satisfied that the requirements for recognition of a school as provided for in *section 10 (2)* are not being met by a school, including a school recognised in accordance with *10 (3)*, or that the functions of a school are not being effectively discharged and is of the opinion that recognition should be withdrawn from that school, the Minister shall inform the board, the patron, the teachers, the student council where one exists and the parents of students in that school by notice in writing of that opinion and the reasons for the opinion.

(2) If, after the expiration of three months from the date of the notice issued under *subsection (1)*, and, after consideration of any representations made to the Minister by the board or the patron of the school, the teachers or the parents or the student council where one exists, the Minister remains of the said opinion, the Minister may withdraw recognition from the school by notice in writing addressed to the board and the patron of the school, and such notice shall be effective on and from the last day of the school year following the school year in which the notice was addressed to the board or such later date as the Minister may determine.

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

(4) Where the Minister is satisfied that a school from which recognition has been withdrawn satisfies the requirements for recognition of a school as provided for in *section 10*, and that the functions of the school will be effectively discharged, the Minister may restore recognition to that school, provided that such restoration of recognition shall not entitle that school or any person employed in the school to receive any payment out of monies provided by the Oireachtas in relation to the period subsequent to the withdrawal of recognition and prior to the

restoration of recognition.

1998 53 12

Annual funding.

12.—(1) The Minister, with the concurrence of the Minister for Finance, shall determine and publish in each school year criteria by which any class or classes of recognised schools or centres for education are to be funded in the following school year from monies provided by the Oireachtas and such criteria shall allow for the payment of additional monies to recognised schools having regard to the level of educational disadvantage of students in the schools.

(2) Except as otherwise provided by this Act, the Minister shall, in each school year by such date or dates as shall be determined by the Minister, make to each recognised school or centre for education a grant or grants, which accords with the criteria determined pursuant to this section, from monies provided by the Oireachtas in accordance with this Act, for the purposes of carrying on that school or centre for education.

(3) A grant or grants shall not be made unless the school is a recognised school at the date that such grant or grants are to be made.

(4) Except as otherwise provided in this Act, where, on the commencement of this section, arrangements are in place whereby grants are provided by the Minister to a body of persons which disburses such grants to two or more recognised schools, then nothing in this Act shall operate to alter such arrangements except with the agreement of that body or its successor.

(5) Where *subsection (4)* applies, the Minister shall, from monies provided by the Oireachtas, make such grant or grants to the body referred to in that subsection or its successor of an amount equal to the amount which, but for this subsection, would have been made to schools under *subsection (2)* and any such grant or grants shall be applied by that body for the benefit of students in those schools.

1998 53 13

The Inspectorate.

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

(2) The Minister shall include amongst those he or she appoints as Inspectors under *subsection (1)* persons who hold qualifications as psychologists or who have other expertise, including expertise in the education of students with special educational needs.

(3) The functions of an Inspector shall be:

(a) to support and advise recognised schools, centres for education and teachers on matters relating to the

provision of education and, without prejudice to the generality of the foregoing, an Inspector—

(i) shall visit recognised schools and centres for education on the initiative of the Inspectorate, and, following consultation with the board, patron, parents of students and teachers, as appropriate, do any or all of the following:

(I) evaluate the organisation and operation of those schools and centres and the quality and effectiveness of the education provided in those schools or centres, including the quality of teaching and effectiveness of individual teachers;

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

(III) assess the implementation and effectiveness of any programmes of education which have been devised in respect of individual students who have a disability or other special educational needs;

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

(V) report to the Minister, or to the board, patron, parents of students and teachers, as appropriate, and as prescribed, on these matters or on any other matter relating to the activities of those schools or centres and the needs of students attending those schools or centres,

(ii) may conduct assessments of the educational needs of students in recognised schools and advise those students, their parents and the schools as appropriate in relation to the educational development of those students,

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

(iv) shall advise parents and parents' associations;

(b) to evaluate the quality and effectiveness of the provision of education in the State, including comparison with relevant international practice and standards, and to report thereon to the Minister;

(c) to conduct research into education and to provide support in the formulation of policy by the Minister;

(d) to promote excellence in the management of, teaching in and the use of support services by schools and in the procedures for consultation and co-operation within and between schools and centres for education;

(e) to disseminate information relating to—

(i) the performance by the Inspectorate of the functions provided for in this section, and

(ii) successful educational initiatives which have been implemented by schools and centres for education,

and promote informed debate on those matters;
(f) to evaluate the effectiveness of the teaching, development, promotion and use of Irish in schools and centres for education and to report to the Minister on those matters;
(g) to advise the Minister on any matter relating to education policy and provision, including the curriculum taught in recognised schools, assessment and teaching methods, and
(h) to perform such functions relating to the preparation and marking of the school examinations which are conducted in the State as the Chief Inspector shall determine, the monitoring and evaluation of the content and standards of those examinations and to report thereon to the Minister.

(4) Without prejudice to the generality of *subsection (3)*, an Inspector to whom *subsection (2)* applies shall have the following functions:

(a) in consultation with parents to assess the psychological needs of students in recognised schools and to advise as appropriate those students, their parents and the schools in relation to the educational and psychological development of such students;
(b) to advise recognised schools on policies and strategies for the education of children with special educational needs;
(c) to advise the Minister on any matter relating to the psychological needs of students in recognised schools;
(d) in collaboration with parents and the Principal and teachers in recognised schools, to assist in the creation of a school environment which prevents or limits obstacles to learning which students may experience, and
(e) to advise the Minister on any matter relating to the linguistic needs of deaf students in recognised schools.

(5) Where an Inspector has carried out an evaluation or an assessment under *subsection (3) (a) (i)*, he or she may make recommendations to the Minister in respect of improvements that he or she considers appropriate.

(6) The Minister may, if a teacher and the board consent, second that teacher to the Inspectorate for such period as the Minister shall determine, to carry out any or all of the functions conferred on an Inspector.

(7) An Inspector shall have all such powers as are necessary or expedient for the purpose of performing his or her functions and shall be accorded every reasonable facility and co-operation by the board and the staff of a school or centre for education.

(8) An Inspector, including the Chief Inspector, shall carry out his or her functions in accordance with such procedures for, and criteria of, inspections as may be determined by the Minister from

time to time, following consultation with patrons, school management organisations, recognised trade unions and staff associations representing teachers and such other persons as the Minister considers appropriate, and such directions as may be given by the Minister from time to time.

(9) A teacher or the board of a school may request the Chief Inspector to review any inspection carried out by an Inspector which affects the teacher or the school and the Chief Inspector shall review the inspection in accordance with such procedures as the Chief Inspector shall determine.

(10) A person who immediately before the commencement of this Part holds an office as Chief Inspector, Inspector or Inspector of Guidance Service/Psychologist or who is seconded to the Inspectorate shall on the commencement of this Part continue to hold that office or be so seconded as appropriate and this section shall apply to any such person.

(11) The Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996, shall apply to Inspectors.

(12) The Minister shall appoint Inspectors or second teachers to the Inspectorate, in accordance with this section, with the concurrence of the Minister for Finance.

1998 53 14

Establishment and membership of boards of management.

14.—(1) It shall be the duty of a patron, for the purposes of ensuring that a recognised school is managed in a spirit of partnership, to appoint where practicable a board of management the composition of which is agreed between patrons of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister.

(2) A board established in accordance with *subsection (1)* shall fulfil in respect of the school the functions assigned to that school by this Act, and, except in the case of a school established or maintained by a vocational education committee, each board shall be a body corporate with perpetual succession and power to sue and may be sued in its corporate name.

(3) Pending the establishment of a board as provided for by *subsection (1)* the persons who have responsibilities under the structures and systems in place in a school for the management of that school at the commencement of this Part, including boards of governors, shall, as appropriate, discharge the functions of a board under this Act.

(4) The members of a board shall, except where articles of management otherwise provide, be appointed by the patron of the school.

(5) When making appointments to a board established in accordance with *subsection (1)* the patron shall comply with

directions given by the Minister in respect of an appropriate gender balance and the Minister, before giving any such directions, shall consult with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers.

(6) The Minister, with the agreement of the patron, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall prescribe matters relating to the appointment of a board.

(7) Except as provided by this Act, no action shall lie against a member of a board in respect of anything done by that member in good faith and in pursuance of this Act or any regulations made by the Minister under this Act.

(8) Where a patron determines that the appointment of a board in accordance with *subsection (1)* is not practicable, the patron shall inform the parents of students, the teachers and other staff of the school and the Minister of that fact and the reasons therefor at the time of such determination and, thereafter, if a board is not so appointed, the patron shall, from time to time or as requested by the Minister, inform the parents, teachers and other staff and the Minister of the reasons therefor.

1998 53 15

Functions of a board.

15.—(1) It shall be the duty of a board to manage the school on behalf of the patron and for the benefit of the students and their parents and to provide or cause to be provided an appropriate education for each student at the school for which that board has responsibility.

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

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

(b) uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school, and at all times act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school,

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

(d) publish, in such manner as the board with the agreement of the patron considers appropriate, the policy of the school concerning admission to and participation in

the school, including the policy of the school relating to the expulsion and suspension of students and admission to and participation by students with disabilities or who have other special educational needs, and ensure that as regards that policy principles of equality and the right of parents to send their children to a school of the parents' choice are respected and such directions as may be made from time to time by the Minister, having regard to the characteristic spirit of the school and the constitutional rights of all persons concerned, are complied with,

(e) have regard to the principles and requirements of a democratic society and have respect and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society,

(f) have regard to the efficient use of resources (and, in particular, the efficient use of grants provided under *section 12*), the public interest in the affairs of the school and accountability to students, their parents, the patron, staff and the community served by the school, and

(g) use the resources provided to the school from monies provided by the Oireachtas to make reasonable provision and accommodation for students with a disability or other special educational needs, including, where necessary, alteration of buildings and provision of appropriate equipment.

(3) For the avoidance of doubt, nothing in this Act shall confer or be deemed to confer on the board any right over or interest in the land and buildings of the school for which that board is responsible.

1998 53 16

Dissolution by a patron.

16.—(1) Subject to this section and to the consent of the Minister, the patron may—

(a) for good and valid reasons stated in writing to a member of a board of management remove that member from that office, or

(b) if satisfied that the functions of a board are not being effectively discharged, dissolve that board.

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

(3) If, at the end of a period of one month after the date of the notice provided for in *subsection (2)*, the patron, having considered any representations made to him or her by or on behalf of the member or the board, remains of the view that the member should be removed from office or that the board should be dissolved then the patron may, subject to the approval of the Minister, by notice in writing and stating the opinion of the patron and the reasons therefor, remove the member from office or

dissolve the board as appropriate.

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

(5) Whenever the patron dissolves a board, the patron may, subject to the approval of the Minister, appoint any person or body of persons as the patron thinks fit to perform the functions of the board.

(6) Where a patron removes a member of a board the resulting vacancy shall be filled in accordance with regulations made under *section 14 (6)*.

(7) The patron shall provide, in accordance with *section 14*, for the re-establishment of a board dissolved under *subsection (1)* not later than six months following the dissolution or such longer period as the patron, with the consent of the Minister, considers appropriate and when the new board has been established the functions of the dissolved board shall be re-vested in the new board and shall cease to be functions of the person or body of persons, if any, appointed under *subsection (5)*.

1998 53 17

Dissolution by patron at **17.**—(1) Where—
request of Minister.

(a) the Minister is satisfied that the functions of a board are not being effectively discharged, or

(b) a board willfully neglects to comply with any order, direction or regulation of the Minister given or made under this Act, or

(c) a board fails to comply with any judgment or order of any court of competent jurisdiction,

the Minister may, by notice in writing, require the patron to dissolve the board for reasons stated in such notice and the patron shall dissolve the board accordingly as soon as may be after the date of such notice.

(2) Before the Minister serves a notice as provided for in *subsection (1)*, he or she shall inform the board and the patron of his or her intention to do so and shall consider any representations made to him or her by or on behalf of the board or the patron within one month of informing the board and the patron.

(3) Whenever the patron dissolves a board under this section, *subsections (5) and (7) of section 16* shall apply.

1998 53 18

Keeping of accounts and records.

18.—(1) Except in the case of a school established or maintained by a vocational education committee, a board shall keep all proper and usual accounts and records of all monies received by

it or expenditure of such monies incurred by it and shall ensure that in each year all such accounts are properly audited or certified in accordance with best accounting practice.

(2) Accounts kept in pursuance of this section shall be made available by the school concerned for inspection by the Minister and by parents of students in the school, in so far as those accounts relate to monies provided in accordance with *section 12*.

1998 53 19

Report on operation of board.

19.—(1) Where the Minister or the patron is of the opinion that the functions of a board are not being effectively discharged, the Minister or the patron, as the case may be, shall inform the board of that opinion and the reasons therefor.

(2) Having considered any representations by the board, the Minister or the patron, as the case may be, may authorise any person or persons as the Minister or the patron may deem appropriate to report to the Minister or the patron or both the Minister and the patron on any matter arising from or relating to the operation of that board.

(3) Any person appointed to prepare a report under this section shall be entitled at all reasonable times to enter any premises occupied by the school concerned and shall be afforded every facility and co-operation by the board, the teachers and other staff of the school, including access to all records, to perform his or her functions.

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

(5) Where either the Minister or a patron proposes to exercise functions under this section then—

- (a) the Minister shall inform the patron, or
- (b) the patron shall inform the Minister,

as appropriate, of the proposed course of action.

1998 53 20

Report and information.

20.—A board shall establish procedures for informing the parents of students in the school of matters relating to the operation and performance of the school and such procedures may include the publication and circulation to parents, teachers and other staff and a student council where one has been established of a report on the operation and performance of the school in any school year, with particular reference to the achievement of objectives as set out in the school plan provided for under *section 21*.

1998 53 21

The school plan.

21.—(1) A board shall, as soon as may be after its appointment, make arrangements for the preparation of a plan (in this section referred to as the "school plan") and shall ensure that the plan is regularly reviewed and updated.

(2) The school plan shall state the objectives of the school relating to equality of access to and participation in the school and the measures which the school proposes to take to achieve those objectives including equality of access to and participation in the school by students with disabilities or who have other special educational needs.

(3) The school plan shall be prepared in accordance with such directions, including directions relating to consultation with the parents, the patron, staff and students of the school, as may be given from time to time by the Minister in relation to school plans.

(4) A board shall make arrangements for the circulation of copies of the school plan to the patron, parents, teachers and other staff of the school.

1998 53 22

Functions of Principal and teachers.

22.(1) The Principal of a recognised school and the teachers in a recognised school, under the direction of the Principal, shall have responsibility, in accordance with this Act, for the instruction provided to students in the school and shall contribute, generally, to the education and personal development of students in that school.

(2) Without prejudice to *subsection (1)*, the Principal and teachers shall—

- (a) encourage and foster learning in students,
- (b) regularly evaluate students and periodically report the results of the evaluation to the students and their parents,
- (c) collectively promote co-operation between the school and the community which it serves, and
- (d) subject to the terms of any applicable collective agreement and their contract of employment, carry out those duties that—
 - (i) in the case of teachers, are assigned to them by or at the direction of the Principal, and
 - (ii) in the case of the Principal, are assigned to him or her by the board.

1998 53 23

The Principal.

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

(2) In addition to the functions of a Principal provided for in *section 22*, the Principal 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 for that management,
- (b) provide leadership to the teachers and other staff and the students of the school,
- (c) be responsible for the creation, together with the board, parents of students and the teachers, of a school environment which is supportive of learning among the students and which promotes the professional development of the teachers,
- (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 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.

(3) For the purpose of carrying out his or her functions under this Act, a Principal shall have all such powers as are necessary or expedient in that regard, and shall carry out his or her functions in accordance with such policies as may be determined from time to time by the board and regulations made in accordance with *section 33*.

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

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

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

1998 53 24

Provisions relating to staff. **24.**—(1) Subject to this section, a board may appoint such and so many persons as teachers and other staff of a school as the board from time to time thinks necessary for the performance of its powers and functions under this Act.

(2) The numbers and qualifications of teachers and other staff of a school, who are to be paid from monies provided by the Oireachtas, shall be subject to the approval of the Minister, with the concurrence of the Minister for Finance.

(3) A board shall appoint teachers and other staff, who are to be paid from monies provided by the Oireachtas, and may suspend or dismiss such teachers and staff, in accordance with procedures agreed from time to time between the Minister, the patron, recognised school management organisations and any recognised trade union and staff association representing teachers or other staff as appropriate.

(4) Pending the agreement of procedures provided for in *subsection (3)*, the procedures applied in the appointment, suspension and dismissal of teachers or other staff immediately before the commencement of this section shall, after such commencement, continue to be applied.

(5) The terms and conditions of employment of teachers and other staff of a school appointed by a board and who are to be paid from monies provided by the Oireachtas shall be determined by the Minister, with the concurrence of the Minister for Finance.

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

(7) Where, at the commencement of this section the employer of the teachers or other staff in a post-primary school is a person or body of persons other than the board of the school, then *subsections (1), (3) and (5)* shall apply as if the person who or the body which, at such commencement and from time to time thereafter, is such employer, is substituted for the board as therein referred to.

(8) Except in the case of an agreement as provided for in *subsection (3)*, nothing in this Act shall have the effect of altering, after the commencement of this Act, the terms and conditions of teachers and other staff of a school under which they were employed before such commencement.

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

1998 53 25

School year, week, day.

25.—The Minister may, from time to time, following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, prescribe—

(a) the minimum number of days in a school year during which a school shall be open to receive students and provide them with instruction,

(b) the minimum number of hours of instruction in a school

day or in a school week, and

(c) any matters related to the length of the school year, the school week or the school day and the organisation and structure of such year, week or day.

1998 53 26

Parents' association.

26.—(1) The parents of students of a recognised school may establish, and maintain from among their number, a parents' association for that school and membership of that association shall be open to all parents of students of that school.

(2) A parents' association shall promote the interests of the students in a school in co-operation with the board, Principal, teachers and students of a school and for that purpose may—

- (a) advise the Principal or the board on any matter relating to the school and the Principal or board, as the case may be, shall have regard to any such advice, and
- (b) adopt a programme of activities which will promote the involvement of parents, in consultation with the Principal, in the operation of the school.

(3) The board shall promote contact between the school, parents of students in that school and the community and shall facilitate and give all reasonable assistance to parents who wish to establish a parents' association and to a parents' association when it is established.

(4) (a) A parents' association shall, following consultation with its members, make rules governing its meetings and the business and conduct of its affairs.

- (b) Where a parents' association is affiliated to a national association of parents, the rules referred to in *paragraph (a)* shall be in accordance with guidelines issued by that national association of parents with the concurrence of the Minister.

1998 53 27

Information to students and student council.

27.—(1) A board shall establish and maintain procedures for the purposes of informing students in a school of the activities of the school.

(2) The procedures established and maintained under *subsection (1)* shall facilitate the involvement of the students in the operation of the school, having regard to the age and experience of the students, in association with their parents and teachers.

(3) Students of a post-primary school may establish a student council and, without prejudice to the generality of *subsection (1)*, a board of a post-primary school shall encourage the establishment by students of a student council and shall facilitate

and give all reasonable assistance to—

- (a) students who wish to establish a student council, and
- (b) student councils when they have been established.

(4) A student council shall promote the interests of the school and the involvement of students in the affairs of the school, in co-operation with the board, parents and teachers.

(5) The rules for the establishment of a student council shall be drawn up by the board, in accordance with such guidelines as may be issued by the Minister from time to time, and such rules may provide for the election of members and the dissolution of a student council.

(6) A student council, following consultation with the board, may make rules governing its meetings and the business and conduct of its affairs.

1998 53 28

Grievance and other procedures.

28.—(1) The Minister, following consultation with patrons of recognised schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, may from time to time prescribe procedures in accordance with which—

- (a) the parent of a student or, in the case of a student who has reached the age of 18 years, the student, may appeal to the board against a decision of a teacher or other member of staff of a school,
- (b) grievances of students, or their parents, relating to the students' school (other than those which may be dealt with under *paragraph (a)* or *section 29*), shall be heard, and
- (c) appropriate remedial action shall, where necessary, be taken as a consequence of an appeal or in response to a grievance.

(2) In prescribing procedures for the purposes of this section the Minister shall have regard to the desirability of determining appeals and resolving grievances in the school concerned.

1998 53 29

Appeals to Secretary General.

29.—(1) Where a board or a person acting on behalf of the board—

- (a) permanently excludes a student from a school, or
- (b) suspends a student from attendance at a school for a period to be prescribed for the purpose of this paragraph, or
- (c) refuses to enroll a student in a school, or
- (d) makes a decision of a class which the Minister, following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff

associations representing teachers, may from time to time determine may be appealed in accordance with this section,

the parent of the student, or in the case of a student who has reached the age of 18 years, the student, may, within a reasonable time from the date that the parent or student was informed of the decision and following the conclusion of any appeal procedures provided by the school or the patron, in accordance with *section 28*, appeal that decision to the Secretary General of the Department of Education and Science and that appeal shall be heard by a committee appointed under *subsection (2)*.

(2) For the purposes of the hearing and determination of an appeal under this section, the Minister shall appoint one or more than one committee (in this section referred to as an "appeals committee") each of which shall include in its membership an Inspector and such other persons as the Minister considers appropriate.

(3) Where a committee is appointed under *subsection (2)* the Minister shall appoint one of its number to be the chairperson of that committee and who, in the case of an equal division of votes, shall have a second or casting vote.

(4) In hearing and determining an appeal under this section an appeals committee shall act in accordance with such procedures as may be determined from time to time by the Minister following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers and such procedures shall ensure that—

- (a) the parties to the appeal are assisted to reach agreement on the matters the subject of the appeal where the appeals committee is of the opinion that reaching such agreement is practicable in the circumstances,
- (b) hearings are conducted with the minimum of formality consistent with giving all parties a fair hearing, and
- (c) appeals are dealt with within a period of 30 days from the date of the receipt of the appeal by the Secretary General, except where, on the application in writing of the appeals committee stating the reasons for a delay in determining the appeal, the Secretary General consents in writing to extend the period by not more than 14 days.

(5) On the determination of an appeal made under this section, the appeals committee shall send notice in writing of its determination of the appeal and the reasons for that determination to the Secretary General.

(6) Where—

- (a) an appeals committee upholds a complaint in whole or

in part, and

(b) it appears to the appeals committee that any matter which was the subject of the complaint (so far as upheld) should be remedied,

the appeals committee shall make recommendations to the Secretary General as to the action to be taken.

(7) As soon as practicable after the receipt by the Secretary General of the notice referred to in *subsection (5)*, the Secretary General—

(a) shall, by notice in writing, inform the person who made the appeal and the board of the determination of the appeals committee and the reasons therefore, and

(b) in a case to which *subsection (6)* applies, may in such notice give such directions to the board as appear to the Secretary General (having regard to any recommendations made by the appeals committee) to be expedient for the purpose of remedying the matter which was the subject of the appeal and the board shall act in accordance with such directions.

(8) The Minister, in consultation with patrons of schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall from time to time review the operation of this section and *section 28* and the first such review shall take place not more than two years from the commencement of this section.

(9) In the case of a school which is established or maintained by a vocational education committee an appeal against a decision of the board of such school shall lie, in the first instance, to the vocational education committee and thereafter to the Secretary General in accordance with *subsection (1)*.

(10) The Minister shall, from time to time, following consultation with vocational education committees, national associations of parents and recognised trade unions and staff associations representing teachers, prescribe—

(a) the procedures for appeals under this section to vocational education committees, and

(b) which appeals shall inquire into whether the procedure adopted by a board in reaching a decision or conducting an appeal was fair and reasonable and which appeals shall be by way of a full re-hearing.

(11) The Secretary General may, in accordance with sections 4 (1) (i) and 9 of the Public Service Management Act, 1997, assign the responsibility for the performance of the functions for which the Secretary General is responsible under this section to another officer of the Department of Education and Science.

(12) For the purposes of *subsection (1)(c)*, "student" means a person who applies for enrolment at a school and that person or his or her parents may appeal against a refusal to enroll him or her in the same manner as a student or his or her parents may appeal a decision under this section.

1998 53 30

Curriculum.

30.—(1) The Minister may, from time to time, following such consultation with patrons of schools, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, as the Minister considers appropriate, prescribe the curriculum for recognised schools, namely—

- (a) the subjects to be offered in recognised schools,
- (b) the syllabus of each subject,
- (c) the amount of instruction time to be allotted to each subject, and
- (d) the guidance and counselling provision to be offered in schools.

(2) Without prejudice to the generality of *subsection (1)*, the Minister—

- (a) shall have regard to the desirability of assisting schools to exercise their powers as provided for under *subsection (4)*,
- (b) shall have regard to the characteristic spirit of a school or class of school in exercising his or her functions under this section,
- (c) may give directions to schools, where he or she considers it appropriate, to ensure that the subjects and syllabuses pursued in those schools are appropriate and relevant to the educational and vocational needs of the students in those schools,
- (d) shall ensure that the amount of instruction time to be allotted to subjects on the curriculum as determined by the Minister in each school day shall be such as to allow for such reasonable instruction time, as the board with the consent of the patron determines, for subjects relating to or arising from the characteristic spirit of the school, and
- (e) shall not require any student to attend instruction in any subject which is contrary to the conscience of the parent of the student or in the case of a student who has reached the age of 18 years, the student.

(3) The Minister may—

- (a) consult with the National Council for Curriculum and Assessment and such other persons or bodies of persons as the Minister considers appropriate on any matter relating to the curriculum for recognised schools, and
- (b) establish, as the Minister considers appropriate, such bodies of persons to conduct research and to advise him or her on matters relating to his or her duties under this

section.

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

1998 53 31

Teaching through Irish. **31.—(1)** The Minister shall establish a body of persons—

- (a) (i) to plan and co-ordinate the provision of textbooks and aids to learning and teaching through Irish,
 - (ii) to advise the Minister on policies relating to the provision and promotion of education through the medium of Irish in recognised schools generally and in schools located in a Gaeltacht area,
 - (iii) to provide support services to those schools through the medium of Irish, and
 - (iv) to conduct research into any or all matters to which this paragraph applies,
- and
- (b) to plan and co-ordinate the provision of textbooks and aids to the learning and teaching of Irish and to conduct research into and to advise the Minister on strategies which have as their objective the enhancement of the effectiveness in the teaching of Irish in recognised schools and centres for education.

(2) The Minister may by order, made with the consent of the Minister for Finance, delegate any of his or her functions in respect of the matters referred to in *subsection (1)* to the body established in accordance with that subsection which shall carry out those functions under the direction and control of the Minister.

(3) The body established in accordance with *subsection (1)*—

- (a) shall, with the consent of the Minister, establish a committee to assist it in the performance of the functions conferred on it under *subsection (1)(b)*, and
- (b) may, with the consent of the Minister, at any time dissolve a committee appointed under this subsection or remove a member of a committee from such membership.

(4) The body established in accordance with *subsection (1)* shall, from time to time, as it considers appropriate, advise the National Council for Curriculum and Assessment on matters relating to—

- (a) the teaching of Irish,
- (b) the provision of education through the medium of Irish, including matters relating to the curriculum for primary and post-primary schools which provide education through the medium of Irish and assessment procedures

employed in those schools, and
(c) the educational needs of people living in a Gaeltacht area,

and the National Council for Curriculum and Assessment shall have regard to any such advice in the exercise by it of its functions.

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

(6) In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to the body appointed in accordance with *subsection (1)* a grant or grants for the purposes of expenditure by that body in the performance of its functions.

(7) The Minister may provide such secretarial and administrative support to a body established under this section as the Minister considers necessary.

1998 53 32

Educational disadvantage. **32.**—(1) The Minister shall by order, following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and such other persons as the Minister considers appropriate, establish a committee, hereinafter referred to as the "educational disadvantage committee", to advise him or her on policies and strategies to be adopted to identify and correct educational disadvantage.

(2) Subject to *subsection (3)*, the Minister shall appoint persons to be members of an educational disadvantage committee for such period not exceeding three years as he or she thinks fit and may renew such appointments as he or she thinks fit.

(3) Up to half of the membership of the educational disadvantage committee shall be appointed from nominees of such voluntary and other bodies which have objects which the Minister considers relevant to the work of the committee.

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

(5) The educational disadvantage committee may, as soon as is practicable after it has been established and, thereafter, from time to time as it considers appropriate, prepare and submit to the Minister a statement containing—

(a) proposed policies and strategies for the identification and correction of educational disadvantage, relating to such period as it considers appropriate, and

(b) the areas of activity to which the committee accords priority.

(6) In preparing a statement as provided for in *subsection (5)*, the educational disadvantage committee shall have regard to—

(a) the resources, including the financial resources, available, and

(b) the public interest in ensuring that the resources available are applied in an effective and efficient manner.

(7) In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to the educational disadvantage committee a grant or grants for the purposes of expenditure by that committee in the performance of its functions.

(8) The Minister may provide such secretarial and administrative support to the educational disadvantage committee as the Minister considers necessary.

(9) In this section "educational disadvantage" means the impediments to education arising from social or economic disadvantage which prevent students from deriving appropriate benefit from education in schools.

1998 53 33

Regulations.

33.—The Minister, following consultation with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, may make regulations for the purpose of giving effect to this Act and, without prejudice to the generality of the foregoing, the Minister may make regulations relating to all or any of the following matters:

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

(b) the making of grants by the Minister to schools and centres for education;

(c) the appointment and qualifications of persons who are to be employed as teachers in schools or centres for education;

(d) the inspection of schools;

(e) the building, maintenance and equipment of schools;

(f) the length of the school year, school week and school day;

(g) admission of students to schools;

(h) access to schools by school attendance officers and other

persons;

(i) access to schools and centres for education by students with disabilities or who have other special educational needs, including matters relating to reasonable accommodation and technical aid and equipment for such students;

(j) procedures for the promotion of effective liaison and co-operation by schools and centres for education with—

- (i) other schools and centres for education,
- (ii) local authorities (within the meaning of the Local Government Act, 1941),
- (iii) health boards (within the meaning of the Health Act, 1970), and
- (iv) voluntary and other bodies which have a special interest in education, in particular, education of students with special educational needs;

(k) appeals, and

(l) the curriculum of schools.

1998 53 34

Financial year.

34.—In this Act "financial year" means such period of 12 months as may be prescribed by the Minister.

1998 53 35

Amendment of Intermediate Education (Ireland) Act, 1878.

of **35.**—(1) Section 5 of the Intermediate Education (Ireland) Act, 1878, is hereby amended in subsection (4) by the deletion of "; provided that no examination shall be held in any subject of religious instruction, nor any payment made in respect thereof".

(2) Without prejudice to the application of the Intermediate Education (Ireland) Act, 1878, to both male and female students, section 6 of that Act is hereby amended by the repeal of subsection (4).

1998 53 36

Amendment of Vocational Education Act, 1930. **36.**—The Vocational Education Act, 1930, is hereby amended—

(a) in section 105(1) by the substitution of "a person" for "an officer of the Minister", and

(b) in sections 106 and 107 by the substitution of "a person" for "an officer" wherever it occurs.

1998 53 37

Education support centres.

37.—(1) In this section "education support centre" means a place in which services are provided for schools, teachers, parents, boards and other relevant persons which support them in carrying out their functions in respect of the provision of education which is recognised for that purpose by the Minister in accordance with *subsection (2)*.

(2) The Minister may recognise a place as an education support centre and where the Minister so recognises a place he or she shall cause the name and address of that centre to be entered in a register maintained by the Minister and available for inspection by members of the public during normal working hours.

(3) An education support centre shall have a management committee, to manage the business and staff of that centre.

(4) A committee established in accordance with *subsection (3)* shall be a body corporate with perpetual succession and with power to sue and may be sued in its corporate name and no action shall lie against a member of a board in respect of anything done by that member in good faith and in pursuance of their functions as such members.

(5) The Minister may withdraw recognition from an education support centre.

(6) The Minister may, from time to time, make regulations relating to all or any of the following matters:

- (a) procedures for the appointment of management committees;
- (b) the appointment and remuneration of staff;
- (c) the making of grants to education support centres;
- (d) the provision of information to the Minister on any matter relating to the operation of education support centres;
- (e) access to an education support centre and to the financial and other records of that education support centre by persons appointed by the Minister, and
- (f) such other matters relating to the operation of such centres as the Minister considers appropriate.

1998 53 38

Establishment day.

38.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.

1998 53 39

Establishment of National Council for Curriculum and Assessment.

39.—(1) There shall stand established on the establishment day a body to be known as the National Council for Curriculum and Assessment, or in the Irish language An Chomhairle Náisiúnta Curaclaim agus Measúnachta (in this Act referred to as "the Council") to perform the functions assigned to it by or under this Act.

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

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

1998 53 40

Composition
appointment.

and **40.**—(1) The composition of the Council shall be determined by order, made by the Minister following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and with such other persons or bodies of persons as the Minister considers appropriate.

(2) In determining the composition of the Council, the Minister shall ensure that, as far as is practicable, the membership of the Council—

(a) is representative of bodies and persons involved in the education system at early childhood and primary and post-primary levels, in particular national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, and

(b) includes other persons who—

(i) have experience or skills, including experience of and skills in business and industry, which in the opinion of the Minister are relevant to the work of the Council and would complement the experience and skills of the persons appointed in accordance with *paragraph (a)*,

(ii) have a special interest in, or experience of, the education of students with a disability or other special educational needs, or

(iii) are representative of Irish language organisations,

as the Minister considers appropriate.

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

(4) The members of the Council shall be appointed by the Minister in accordance with regulations drawn up by the Minister following consultation with patrons, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and with such other persons or bodies of persons as the Minister considers appropriate.

1998 53 41

Objects and functions.

41.—(1) The object of the Council shall be to advise the Minister on matters relating to—

(a) the curriculum for early childhood education, primary and post-primary schools, and

(b) the assessment procedures employed in schools and examinations on subjects which are part of the curriculum.

(2) Without prejudice to the generality of *subsection (1)*, it shall be a function of the Council:

(a) from time to time to review the curriculum, or any part of the curriculum, for schools and the syllabuses taught and to advise the Minister;

(b) to advise the Minister on appropriate methods for the assessment of the effectiveness of the education provided in schools, with particular regard to mechanisms whereby students who have problems achieving their potential may be identified as early as practicable and assisted;

(c) to advise the Minister on strategies which will assist students to make a successful transition from primary school to post-primary school;

(d) from time to time to advise the Minister on the standards of knowledge and skills which students at various age-levels should attain and on the mechanisms for assessing the achievement of such standards, having regard to national and international standards and good practice in relation to such assessment;

(e) from time to time to review the inservice training needs of teachers, including needs arising from the introduction of new curricula, subjects or syllabuses in schools, and to advise the Minister in relation to those needs;

(f) to advise the Minister on the requirements, as regards curriculum and syllabuses, of students with a disability or other special educational needs;

(g) to advise the Minister on strategies which have as their objective the enhancement of the effectiveness in the teaching and use of the Irish language in schools;

(h) to maintain, manage, administer and invest all the money and assets of the Council;

(i) to promote research and development in education and to conduct or commission such research and development where appropriate to its objects and functions;

(j) to promote equality of access to education generally and to instruction in any particular subjects between male and female students;

(k) to accept gifts of money, land or other property upon such trusts and conditions, if any, as may be specified by the donors, provided that nothing in any trust or condition is contrary to this Act, and

(l) to do all such acts and things as may be necessary to further the objects of the Council, including such functions in relation to review and reform of the curriculum in schools and the assessment of the outcomes of the education provided in schools as the Minister shall from time to time direct.

(3) In carrying out its functions the Council shall—

- (a) have regard to the implications of its advice for the resources, including financial resources, available and shall quantify, as far as practicable, the resources necessary to give effect to any of its proposals,
- (b) have regard to the desirability of achieving equality of access to, participation in and benefit from education,
- (c) act in accordance with such directions as may from time to time be given to the Council by the Minister, including directions as to the priority to be accorded to the exercise by it of its different functions, and
- (d) have regard to the practicalities of implementation of any advice which it proposes to give to the Minister.

1998 53 42

Consultation
designated bodies.

with **42.**—(1) The Minister may, for the purposes of this section, by order designate persons who, or organisations which, have a special interest in the exercise by the Council of its functions and the persons or organisations so designated are hereinafter referred to as "designated bodies".

(2) The Council shall, from time to time as it considers appropriate, consult with designated bodies and shall consult with such bodies when requested to do so by the Minister.

(3) A designated body may at any time, as it considers appropriate, make representations to the Council on any matter relating to the functions of the Council and the Council shall consider such representations and shall inform the designated body of the outcome of that consideration.

(4) The Council shall give to each designated body a copy of each publication issued by it as soon as may be after it has been issued.

1998 53 43

Chief executive officer.

43.—(1) The Minister shall, from time to time, appoint to the Council in a whole-time capacity a chief executive officer who shall carry on, manage and generally control the administration of the Council and shall manage and control the staff of the Council.

(2) The person who, immediately before the day on which the chief executive officer is appointed under *subsection (1)*, holds the office of chief executive officer of the body of persons known as National Council for Curriculum and Assessment, being an unincorporated and non-statutory body of persons appointed by the Minister shall, if he or she so consents, be appointed as the first chief executive officer of the Council.

(3) The chief executive officer shall be employed by the Minister in accordance with such terms and conditions, which may include secondment from another office or employment, and receive such remuneration as the Minister, with the consent of the Minister for Finance, from time to time determines.

1998 53 44

Staff.

44.—(1) The Minister, with the consent of the Minister for Finance, may appoint such and so many persons to assist the Council in the performance of its functions as the Minister considers appropriate.

(2) The persons appointed in accordance with *subsection (1)* shall be employed in accordance with such terms and conditions, which may include secondment from another office or employment, and receive such remuneration as the Minister, with the consent of the Minister for Finance, from time to time determines.

(3) The Minister may provide such administrative and secretarial support to the Council as he or she considers necessary.

(4) The Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996, shall apply to full-time, permanent employees of the Council.

1998 53 45

Grants.

45.—In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to the Council a grant or grants for the purposes of expenditure by the Council in the performance of its functions.

1998 53 46

Accounts and information.

46.—(1) The Council shall keep, in such form as may be approved of by the Minister, with the concurrence of the Minister for Finance, all proper and usual accounts and records of all monies received or expenditure incurred by it and, in particular, shall keep in such form as aforesaid such special accounts and records as the Minister may, with the concurrence of the Minister for Finance, from time to time direct.

(2) Accounts kept in pursuance of this section shall be submitted annually by the Council to the Comptroller and Auditor General for audit on a date not later than the thirtieth day of April in the year following the year to which the accounts relate, or on such other date as the Minister may from time to time determine, and, immediately after the audit, a copy of the accounts and of such other accounts, if any, as the Minister has directed to be kept, together with a copy of the report of the Comptroller and Auditor General on the accounts shall be presented by the Council to the Minister.

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

(4) The Council shall provide the Minister with such information regarding the performance of its functions as the Minister may from time to time require.

1998 53 47
Committees.

47.—The Council may—

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

(b) delegate to a committee appointed under this section any of its functions that may be better or more conveniently performed by a committee, and

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

1998 53 48
Annual Report.

48.—As soon as may be after the end of each year, the Council shall prepare and submit to the Minister, in such form as may be determined by the Minister, a report on the performance of the Council in that year.

1998 53 49
Interpretation.

49.—In this Part—

"candidate" means a person who, in accordance with procedures determined from time to time by the Minister, is registered to present himself or herself for an examination;

"examiner" means a person who is employed by the Minister for the purpose of—

(a) the preparation of examination papers or other examination materials,

(b) the marking of such papers or other such materials, or

(c) the carrying out of any other functions in respect of the conduct of examinations;

"examination" means an examination relating to post-primary, adult and vocational education and vocational training as may from time to time be conducted in accordance with procedures determined by the Minister or by a body of persons established by the Minister and to which this Part applies in accordance with *section 50*;

"examination paper" includes any paper, plan, map, drawing, diagram, pictorial or graphic work or other document and any photograph, film or recording (whether of sound or images or both)—

(a) in which questions are set for answer by candidates as part of an examination or which are related to such questions, or

(b) in which projects or practical exercises are set which candidates are required to complete as part of an examination or which are related to such projects or exercises.

1998 53 50

Examinations.

50.—(1) This Part shall apply to the examinations set out in *Schedule 2*.

(2) In addition to the examinations set out in *Schedule 2*, the Minister may from time to time prescribe such other examinations as he or she considers appropriate to which this Part shall apply.

1998 53 51

Regulations.

51.—(1) The Minister may make regulations as he or she from time to time considers appropriate for the effective conduct of examinations and in particular, without prejudice to the generality of the aforesaid, may make regulations relating to—

(a) the preparation of an examination paper and other examination materials,

(b) procedures at places where examinations are conducted, including the supervision of examinations,

(c) the marking of work presented for examination,

(d) the issuing of results of examinations,

(e) the charging and collection of fees for examinations,

(f) the terms under which candidates may appeal against the results of an examination and the procedure for such appeals,

(g) the penalties to be imposed on a person who acts in breach of regulations made by the Minister or who otherwise misconducts himself or herself in respect of an examination, and

(h) the designation of places where examinations may be held.

(2) The Minister may from time to time appoint a person or a body of persons to advise him or her on any matter relating to the examinations or to supervise or review any part of the conduct of the examinations, including appeals by candidates against the results of examinations.

1998 53 52

Offences.

52.—(1) A person who—

(a) knowingly and without lawful authority publishes an examination paper or part of such paper to any other person prior to the holding of the examination concerned,

(b) has in his or her possession without lawful authority an examination paper or part of such paper prior to the holding of the examination concerned,

(c) carries out any duties relating to the preparation of examination papers and knowingly and without lawful authority provides a candidate for an examination or any other person with information concerning the material prepared by him or her in the course of those duties with the intention of conferring an advantage upon a candidate

over other candidates,

(d) knowingly and wilfully credits a candidate with higher marks than the marks to which that candidate was entitled with the intention of conferring an advantage on that candidate over other candidates,

(e) knowingly and maliciously credits a candidate with lower marks than the marks to which that candidate was entitled,

(f) personates a candidate at an examination or knowingly allows or assists a person to personate a candidate at an examination,

(g) knowingly and maliciously destroys or damages any material relating to an examination,

(h) knowingly and maliciously obstructs any candidate or a person engaged in the conduct of an examination or otherwise interferes with the general conduct of an examination,

(i) knowingly and without lawful authority alters any certificate or any other record, including a record in machine-readable form, containing the results of an examination, or

(j) knowingly issues or makes use of any certificate or other document which purports to be a document issued by the person or body under whose authority the examination was conducted and to contain the results of an examination knowing that those results are false,

shall be guilty of an offence.

(2) A person who knowingly aids, abets, counsels or procures another person to commit any offence under *subsection (1)* or conspires with another person for the commission of any such offence shall be guilty of an offence.

(3) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or (at the discretion of the court) to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £5,000 or (at the discretion of the court) to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(4) No action shall lie against an examiner in respect of anything done by him or her in good faith and in pursuance of his or her functions as an examiner.

1998 53 53

Refusal of access to **53**.—Notwithstanding any other enactment the Minister may—
certain information.

(a) refuse access to any information which would enable the compilation of information (that is not otherwise available to the

general public) in relation to the comparative performance of schools in respect of the academic achievement of students enrolled therein, including, without prejudice to the generality of the foregoing—

- (i) the overall results in any year of students in a particular school in an examination, or
 - (ii) the comparative overall results in any year of students in different schools in an examination,
- and

(b) refuse access to information relating to the identity of examiners.

1998 53 54

Establishment of bodies to provide services related to education. **54.**—(1) The Minister, with the concurrence of the Government, may from time to time by order (in this Act referred to as an "establishment order") establish a body to perform, subject to *subsection (2)*, functions in or in relation to the provision of support services.

(2) The performance of functions by a body established under *subsection (1)* shall be subject to the determination of matters of policy by the Minister.

(3) A body established under *subsection (1)* shall be known by such title as may be specified in the establishment order.

(4) A body so established shall be a body corporate with perpetual succession and a seal and with power to sue and be sued in its corporate name and to hold land.

(5) The Minister may from time to time by order amend an establishment order or an order made under this subsection.

(6) The person appointed as principal officer of a body established under *subsection (1)* shall be accountable to the Minister in carrying out the functions referred to in that subsection.

(7) Before making an order under this section the Minister shall consult, as the Minister considers appropriate, with persons directly affected by the proposed order or with trade unions or associations representing such persons.

(8) Notwithstanding *section 5*, the Minister shall not make an order under this section unless he or she has first caused to be laid before each House of the Oireachtas a draft of the proposed order and a resolution approving of the draft has been passed by both Houses.

1998 53 55

Membership and staff.

55.—(1) Every establishment order shall contain such provisions as the Minister considers appropriate in relation to—

- (a) the number of members of the body established by the order, the method, terms and conditions of their appointment and their tenure of office, and
- (b) the number, grades, qualifications, method of appointment (including secondment), conditions of service, tenure of office and the remuneration and superannuation of the persons employed in or by the body so established.

(2) A person seconded or transferred to a body established under *section 54*, shall not, while in the service of that body, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which that person was entitled and the conditions of service to which that person was subject prior to such secondment or transfer.

1998 53 56

Functions.

56.—An establishment order shall contain such provisions as the Minister considers appropriate defining the functions of the body established by the order and the manner in which and the conditions under which the body so established may perform the functions so defined.

1998 53 57

Administration.

57.—An establishment order shall contain such provisions relating to the administration generally of the body established by the order as the Minister considers appropriate including provisions relating to—

(a) the meetings of the body so established and the procedure at such meetings,

(b) the use and authentication of its seal,

(c) the regulation of its finances and the keeping and auditing of its accounts, and

(d) the furnishing to the Minister by such body from time to time of information regarding the performance of its functions, and the furnishing of such information to the Minister at any time at his or her request.

1998 53 58

Grants.

58.—In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies provided by the Oireachtas, may make to a body appointed under *section 54* a grant for the purposes of expenditure by that body in the performance of its functions.

1998 53 59

Revocation of establishment order.

59.—(1) The Minister may at any time by order revoke an establishment order.

(2) A revoking order shall contain such provisions as the Minister thinks necessary or expedient consequential on the

revocation, and, in particular, may make provision for—

(a) the dissolution of the body established by the establishment order and the transfer or distribution of the property, rights and liabilities thereof to any of the following—

(i) the Minister, or

(ii) any one or more than one other body established by an establishment order,

(b) the preservation of continuing contracts made by the dissolved body,

(c) the continuance of pending legal proceedings,

(d) notwithstanding any restriction in any other Act, the transfer of the holder of any office under the dissolved body to—

(i) the Department of Education and Science, or

(ii) any other body established by an establishment order.

Omissis.

Source: Irish Statute Book Database