



STATUTORY INSTRUMENTS.

**S.I. No. 392 of 2015**



EDUCATIONAL RESEARCH CENTRE (ESTABLISHMENT) ORDER,  
2015

EDUCATIONAL RESEARCH CENTRE (ESTABLISHMENT) ORDER,  
2015

I, JAN O’SULLIVAN, Minister for Education and Skills in exercise of the functions conferred on me by section 54 of the Education Act 1998 (No. 51 of 1998), with the concurrence of the Government, and having caused a draft to be laid before each House of the Oireachtas and a resolution approving of the draft having been passed by each such House, hereby order as follows:

1. This Order may be cited as the Educational Research Centre (Establishment) Order 2015.
2. In this Order, unless the context otherwise requires—
  - (a) “Act” means the Education Act 1998 (No. 51 of 1998);
  - (b) “Chief Executive” means that person appointed in accordance with Article 32;
  - (c) “Centre” means the Educational Research Centre established under this Order.
3. In this Order a reference to—
  - (a) an article is a reference to an Article of this Order unless it is indicated that reference to some other enactment is intended,
  - (b) a paragraph is a reference to a paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and
  - (c) a subparagraph is a reference to a subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.
4. There shall stand established on the establishment day a body to be known as the Educational Research Centre, which shall perform the functions conferred on it by or under this Order.
5. The 9th day of September 2015 is appointed to be the establishment day for the purposes of Article 4.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 18th September, 2015.*

6. The seal of the Centre shall be authenticated by the signature of:

- (a) the chairperson of the Centre or another member of the Centre authorised by it to act in that behalf, or
- (b) the Chief Executive of the Centre authorised by the Centre to act in that behalf.

7. The Centre, acting within the policy set by the Minister for Education and Skills in accordance with Section 54(2) of the Education Act 1998, shall:

- (a) provide an assessment support service to schools and centres for education that will enable them to fulfil their obligations under Section 9 of the Education Act, 1998;
- (b) conduct independent research on all aspects of education and at all levels of the education system including educational research that will inform policy making and the improvement of educational standards.

8. To further the objects in Article 7 above, the functions of the Centre shall be to develop and provide materials to schools, and establish and maintain systems for the benefit of schools, that will:

- (i) enable them to assess the attainment levels and academic standards of students as required under Section 9(k) of the Education Act, 1998;
- (ii) enable them to report systematically on the attainment levels and academic standards of students to parents, students, boards of management, the Minister for Education and Skills and others;
- (iii) assist them to identify the special educational needs of individual students.

9. To enable the functions of the Centre as set out in Article 8 above, the activities of the Centre shall include, but not necessarily be limited to:

- (a) providing advice to schools and centres for education on the assessment of the attainment levels and academic standards of students;
- (b) carrying out national and international assessments of the attainment levels and academic achievement of students and reporting on such assessments to the Minister;
- (c) maintaining, storing securely and publishing information on the attainment levels and academic standards of students in schools and centres for education in Ireland;
- (d) engaging in the evaluation of educational programmes and activities;

- (e) initiating and conducting research consistent with the objects of the Centre, and publishing and disseminating the findings of this research;
- (f) building capacity for educational assessment and research in Ireland by making provision for the professional development of staff of the Centre and by providing to others training in, and advice on, areas of its competence;
- (g) serving on national and international bodies of relevance to the Centre;
- (h) co-operating with other bodies, as appropriate, in research, assessment and evaluation studies and in the dissemination of findings concerning research, assessment and evaluation;
- (i) providing consultancy services;
- (j) co-operating with other bodies, as appropriate;
- (k) doing all such acts and things as may be necessary to further the objects of the Centre.

10. The Centre shall have all such powers as are necessary for, or are incidental to, the performance of its functions under this Order.

11. The Centre shall have 5 members.

12. The members of the Centre shall be appointed by the Government on the nomination of the Minister.

13. The Government, on the nomination of the Minister, shall designate one member of the Centre as chairperson and one member of the Centre as deputy chairperson of the Centre.

14. The Minister shall have regard to the desirability of a gender balance in the membership of the Centre as the Minister considers appropriate and determines, from time to time, when making nominations for the Centre.

15. A person shall not be eligible to be a member of the Centre at a particular time if that person—

- (a) is at that time entitled under the Standing Orders of either House of the Oireachtas to sit therein,
- (b) is at that time a representative in the European Parliament,
- (c) is at that time an undischarged bankrupt,
- (d) within the 3 years preceding that time made a composition or arrangement with creditors, or

- (e) within the 5 years preceding that time has served a term of imprisonment imposed by a court of competent jurisdiction.

16. Where a member of the Centre—

- (a) is nominated as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or to be a representative in the European Parliament,
- (c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 (No. 2 of 1997) as having been elected to the European Parliament to fill a vacancy,
- (d) is adjudicated bankrupt or makes a composition or arrangement with creditors, or
- (e) is sentenced to a term of imprisonment by a court of competent jurisdiction,

that member shall thereupon cease to be a member of the Centre.

17. The quorum for a meeting of the Centre shall be 3.

18. The term of office of a member of the Centre shall be such period not exceeding 5 years as may be specified by the Government when appointing that member and the member shall hold office for the period for which he or she is appointed unless he or she sooner dies, resigns by letter addressed to the Minister or ceases to be a member in accordance with Articles 19, 20, 21, or 22.

19. The Government may, at any time, remove a member of the Centre from office if he or she has committed stated misbehaviour or if his or her removal appears necessary to the Government for the effective performance by the Centre of its functions.

20. The Government may, at any time, for reasons stated in writing to the members of the Centre, remove all such members from office.

21. A member of the Centre may, at any time, resign from office as such member by letter addressed to the Minister and the resignation shall take effect from the date on which the letter is received.

22. A member of the Centre who is absent from all meetings of the Centre for a period of six consecutive months, unless such absence was due to illness or was approved by the Centre, shall be disqualified at the expiry of such period from continuing to be a member of the Centre for the remainder of that person's term of office.

23. A member of the Centre whose term of office expires by effluxion of time shall be eligible for re-appointment.

24. The members of the Centre may be paid such allowances for expenses incurred by them as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.

25. The Centre shall hold at least 6 meetings in each year and subject to Article 27, such and so many other meetings as the chairperson deems necessary.

26. The Centre may act notwithstanding any vacancy or vacancies among its members.

27. The chairperson shall convene a meeting of the Centre whenever requested to do so by not less than 3 members.

28. At a meeting of the Centre—

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

29. Every question at a meeting of the Centre shall be determined by a majority of the votes of members present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

30. Subject to this Order and the Act, the Centre shall regulate, by standing orders or otherwise, its procedure and business.

31. Subject to paragraph (3), the Centre shall from time to time appoint a person as chief executive officer of the Centre in a whole-time capacity who shall be known as and is referred to in this Order as the “Chief Executive”.

32. The Minister shall appoint a person to be the first Chief Executive.

33. The Chief Executive shall be an employee of the Centre.

34. The Chief Executive shall carry on, manage and generally control the administration of the Centre and shall manage and control the staff of the Centre.

35. The Chief Executive may delegate any of his or her functions to another employee of the Centre, and the employee concerned shall be accountable to the Chief Executive for the performance of the functions so delegated.

36. The Chief Executive shall, notwithstanding any delegations made by him or her in accordance with Article 35, at all times remain accountable to the Centre for the performance of any functions so delegated.

37. The Chief Executive shall not hold any other office or position without the consent of the Centre and the Minister.

38. The Chief Executive shall hold office subject to 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 Public Expenditure and Reform, from time to time determines.

39. The Chief Executive shall not be a member of the Centre but shall, in accordance with procedures established by the Centre, attend meetings of the Centre and shall be entitled to speak at and advise such meetings.

40. The Centre, with the consent of the Minister and the Minister for Public Expenditure and Reform, may appoint such and so many persons to be employees of the Centre as the Centre thinks appropriate.

41. Each employee of the Centre appointed under paragraph (40) shall perform such duties as the Centre or the Chief Executive may from time to time, assign.

42. The Centre, with the consent of the Minister and the Minister for Public Expenditure and Reform, shall determine the remuneration and conditions of service of employees of the Centre.

43. (1) (a) Notwithstanding the provision of section 42 and subject to paragraph (b) every person who, immediately before the establishment day, was a member of the staff of St. Patrick's College Drumcondra who worked wholly or partially in the part of the college then known as the Educational Research Centre a constituent part of St. Patrick's College Drumcondra (hereinafter referred to as "ERC-St. Patrick's College") shall, on the establishment day, become and be a member of the staff of the Centre.

(b) Every person who, immediately before the establishment day, was a fixed-term employee of ERC-St. Patrick's College shall, on the establishment day, become and be a fixed-term employee of the Centre for the duration of his or her contract of employment.

(2) A person referred to in subsection (1) may be redeployed, in accordance with procedures determined from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform following consultation with recognised trade unions and staff associations representing the persons concerned, to a public service body.

(3) (a) Subject to paragraph (b), a person redeployed in accordance with subsection (2) shall, in accordance with procedures determined under

that subsection, become and be a member of staff of the public service body to which he or she is redeployed.

- (b) Every person who, immediately before the date on which he or she was redeployed in accordance with subsection (2), was a fixed-term employee of ERC-St Patrick's College shall, on that date, become and be a fixed-term employee of the public service body to which he or she is redeployed for the duration of his or her contract of employment.

(4) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned—

- (a) person referred to in subsection (1) shall not, on the establishment day, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the establishment day, and

- (b) a person referred to in subsection (2) shall not, on the date on which he or she is redeployed in accordance with that subsection, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the date on which he or she was so redeployed.

(5) In subsection (4), a reference to conditions of remuneration does not include conditions in relation to superannuation.

(6) In relation to a person referred to in subsection (1) or (2), previous service with the body from which the person was redeployed shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:

- (a) the Redundancy Payments Acts 1996 to 2011;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Act of 2003;
- (d) the Organisation of Working Time Act 1997;
- (e) the Terms of Employment (Information) Acts 1994 to 2012;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

(7) In this section—

“Act of 2003” means the Protection of Employees (Fixed-Term Work) Act 2003;

“contract of employment” has the same meaning as it has in the Act of 2003;

“fixed-term employee” has the same meaning as it has in the Act of 2003;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purpose of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

#### 44. Superannuation

(1) A person referred to in section 43 who, immediately before the establishment day, was a member of a relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the establishment day, continue to be a member of such scheme in accordance with its terms and conditions.

(2) A pensionable public servant who—

(a) is not a member of the Single Public Service Pension Scheme, and

(b) is appointed under section 43 to be an employee of the Centre shall, on his or her appointment, become and be a member of a relevant superannuation scheme in accordance with its terms and conditions.

(3) Nothing in this section prevents a relevant superannuation scheme being varied in accordance with its terms and conditions.

(4) In this section—

“pensionable public servant” shall be construed in accordance with Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

“relevant superannuation scheme” means the Colleges of Education Pension Scheme, 1998 as amended from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform

45. The Centre shall cause to be kept proper accounts of all income and expenditure of the Centre, and of the sources of such income and the subject matter of such expenditure, and of the property, credits and liabilities of the Centre.

46. The financial year of the Centre shall be the period of 12 months ending on the 31st day of December in any year and for the purposes of this provision the period commencing on the establishment day specified in Article 4 and ending on the 31st day of December 2014 shall be deemed to be a financial year.

47. A statement of accounts of the Centre for each financial year shall be prepared, as soon as may be, but in any event not more than 6 months, after the end of such financial year.

48. A copy of the accounts kept in pursuance of Article 43 shall be submitted as soon as practicable following the accounting period to which they relate by the Centre to the Comptroller and Auditor General for audit.

49. Immediately after the audit, a copy of the accounts, and of such other (if any) accounts kept pursuant to Article 43 as the Minister, after consultation with the Minister for Public Expenditure and Reform, may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the members of the Centre and the Minister, and the Minister shall as soon as may be cause copies thereof to be laid before each House of the Oireachtas.

50. The Chief Executive shall be the accounting officer for the appropriation accounts of the Service for the purposes of the Exchequer and Audit Departments Act 1866 and 1921, and the Comptroller and Auditor General (Amendment) Act 1993 (no. 8 of 1993).

51. The Centre shall, in each year, not later than such day as the Minister shall direct, make a report to the Minister for the Minister's approval of the activities it proposes to carry out in the course of the year following such report and make such other reports to the Minister as the Minister may require.

52. The Centre shall, in each year, not later than such day as the Minister shall direct, make a report to the Minister of its activities during the preceding year and make such other reports to the Minister as the Minister may require.

53. The Centre shall submit to the Minister, at such time as the Minister may direct, such information regarding the performance of its functions as the Minister may from time to time require.

The Government concurs with the making of the foregoing Order.



GIVEN under the Official Seal of the Government  
9 September 2015.

ENDA KENNY,  
Taoiseach.



GIVEN under my Official Seal  
9 September 2015.

JAN O'SULLIVAN,  
Minister for Education and Skills.

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