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*Number 22 of 2000*

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**EDUCATION (WELFARE) ACT, 2000**

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ARRANGEMENT OF SECTIONS

PART I

Preliminary and General

Section

1. Short title and commencement.
2. Interpretation.
3. Regulations.
4. Expenses.
5. Reports on operation of Act.
6. Service of documents.
7. Offences.
8. Repeals.

PART II

National Educational Welfare Board

9. Establishment of National Educational Welfare Board.
10. Functions of Board.
11. Educational welfare officers.
12. Liaison officer.
13. Directions of Minister.

PART III

Educational Welfare and Compulsory School Attendance

Section

14. Register of children receiving education in a place other than a school.
15. Appeal against decision of Board.
16. Minister may issue guidelines and make recommendations.
17. Parent to cause child to attend school.
18. Notification of child's absence from school.
19. Admission of child to recognised school.
20. School registers.
21. School attendance records.
22. School attendance strategies.
23. Code of behaviour.
24. Expulsion of student from recognised school.
25. School attendance notice.
26. Right of Board to appeal etc. decision of board of management under section 29 of Act of 1998.
27. Miscellaneous duties of Board in relation to certain children and parents of certain children.
28. Supply of personal data etc. to prescribed bodies.
29. Register of young persons in employment.
30. Functions of educational welfare officers.
31. Amendment of Act of 1996.

PART IV

Provisions Relating to Finance and Staff of Board

32. Grants to Board.
33. Accounts and audits.
34. Reports and information.
35. Gifts.
36. Chief Executive.
37. Staff.
38. Remuneration of staff.
39. Performance of functions of Board by members of staff.
40. Transfer of staff.
41. Superannuation.

SCHEDULE

National Educational Welfare Board

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Acts Referred to

Companies Act, 1990	1990, No. 33
Companies Acts, 1963 to 1999	
Data Protection Act, 1988	1988, No. 25
Education Act, 1998	1998, No. 51
European Parliament Elections Act, 1997	1997, No. 2
Health Act, 1970	1970, No. 1
Local Government Act, 1941	1941, No. 23
Medical Practitioners Act, 1978	1978, No. 4
Minimum Notice and Terms of Employment Acts, 1973 to 1991	
Organisation of Working Time Act, 1997	1997, No. 20
Protection of Young Persons (Employment) Act, 1996	1996, No. 16
Redundancy Payments Acts, 1967 to 1991	
Regional Technical Colleges Act, 1992	1992, No. 16
School Attendance Acts, 1926 to 1967	
Trade Union Act, 1941	1941, No. 22
Unfair Dismissals Acts, 1977 to 1993	
Vocational Education Act, 1930	1930, No. 29
Worker Protection (Regular Part-Time Employees) Act, 1991	1991, No. 5
Youth Work Act, 1997	1997, No. 30





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*Number 22 of 2000*

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**EDUCATION (WELFARE) ACT, 2000**

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AN ACT TO PROVIDE FOR THE ENTITLEMENT OF EVERY CHILD IN THE STATE TO A CERTAIN MINIMUM EDUCATION, AND, FOR THAT PURPOSE, TO PROVIDE FOR THE REGISTRATION OF CHILDREN RECEIVING EDUCATION IN PLACES OTHER THAN RECOGNISED SCHOOLS, THE COMPULSORY ATTENDANCE OF CERTAIN CHILDREN AT RECOGNISED SCHOOLS, THE ESTABLISHMENT OF A BODY, TO BE KNOWN AS THE NATIONAL EDUCATIONAL WELFARE BOARD OR, IN THE IRISH LANGUAGE, AN BORD NÁISIÚNTA LEASA OIDEACHAIS, THE COORDINATION OF ITS ACTIVITIES AND THOSE OF CERTAIN OTHER PERSONS IN SO FAR AS THEY RELATE TO MATTERS CONNECTED WITH SCHOOL ATTENDANCE, THE IDENTIFICATION OF THE CAUSES OF NON-ATTENDANCE ON THE PART OF CERTAIN STUDENTS AND THE ADOPTION OF MEASURES FOR ITS PREVENTION, TO REPEAL THE SCHOOL ATTENDANCE ACTS, 1926 TO 1967, TO PERMIT THE SUPPLY OF DATA RELATING TO A PERSON'S EDUCATIONAL HISTORY TO CERTAIN PERSONS, TO PROVIDE FOR THE AMENDMENT OF THE PROTECTION OF YOUNG PERSONS (EMPLOYMENT) ACT, 1996, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH. [5th July, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—(1) This Act may be cited as the Education (Welfare) Act, 2000. Short title and commencement.

(2) Subject to *subsection (3)*, this Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(3) This Act shall, in so far as it is not in operation, come into operation 2 years after the date of its passing.

[No. 22.] *Education (Welfare) Act, 2000.* [2000.]

Pt.I  
Interpretation.

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

“the Act of 1996” means the Protection of Young Persons (Employment) Act, 1996;

“the Act of 1997” means the Youth Work Act, 1997;

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

“authorised person” has the meaning assigned to it by *section 14*;

“the Board” means the body established by *section 9*;

“board of management” means a board of management appointed in accordance with *section 14* of the Act of 1998 or such persons as are required by subsection (3) of that section to discharge the functions of a board of management;

“Chief Executive” means the Chief Executive Officer of the Board appointed under *section 36*;

“child” means a person resident in the State who has reached the age of 6 years and who—

(a) has not reached the age of 16 years, or

(b) has not completed 3 years of post-primary education,

whichever occurs later, but shall not include a person who has reached the age of 18 years;

“educational welfare officer” shall be construed in accordance with *section 11*;

“functions” includes powers and duties and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“health board” means a board established under *section 4* of the Health Act, 1970;

“inspector” means an inspector appointed under *section 13(1)* of the Act of 1998 and includes the Chief Inspector appointed thereunder;

“local authority” means a local authority for the purposes of the Local Government Act, 1941;

“the Minister” means the Minister for Education and Science;

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

“National Council for Curriculum and Assessment” means the body established by *section 39* of the Act of 1998;

“National Youth Work Advisory Committee” means the committee appointed under *section 10* of the Act of 1997;

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

“prescribed” means prescribed by regulations, and cognate words shall be construed accordingly;

[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

“principal” shall be construed in accordance with section 23 of the Act of 1998, and includes any person (other than a person to whom that section applies), for the time being, performing the functions of principal, in relation to a recognised school, under that Act; Pt.I S.2

“recognised school” means—

- (a) a school designated by the Minister under subsection (1) of section 10 of the Act of 1998 to be a school recognised for the purposes of that Act, or
- (b) a school deemed to be a school recognised in accordance with the said section 10;

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

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

“registered medical practitioner” has the same meaning as it has in the Medical Practitioners Act, 1978;

“school day” shall be construed in accordance with regulations under section 25 of the Act of 1998;

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

“trade union” means a trade union that is the holder of a negotiation licence under Part II of the Trade Union Act, 1941;

“vocational education committee” means a committee established by section 7 of the Vocational Education Act, 1930;

“youth work” has the meaning assigned to it by section 2 of the Act of 1997.

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

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

(4) In this Act, a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the commencement of this subsection, by or under any subsequent enactment.

**3.**—Every regulation under this Act shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. Regulations.

Pt.I  
Expenses. **4.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

Reports on  
operation of Act. **5.**—The Minister shall, as soon as may be after the end of each of the 2 years immediately following the passing of this Act, prepare a report on the operation, in the preceding year, of this Act, and shall cause copies of each such report to be laid before both Houses of the Oireachtas.

Service of  
documents. **6.**—(1) A notice or other document under this Act shall be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways:

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

(2) For the purposes of this section, a company within the meaning of the Companies Acts, 1963 to 1999, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Offences. **7.**—(1) Summary proceedings for an offence under this Act may be brought and prosecuted by the Board.

(2) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Repeals. **8.**—The School Attendance Acts, 1926 to 1967, are hereby repealed.

## PART II

### National Educational Welfare Board

Establishment of  
National  
Educational  
Welfare Board. **9.**—(1) There is hereby established a body to be known as the National Educational Welfare Board or, in the Irish language, An Bord Náisiúnta Leasa Oideachais (in this Act referred to as “the Board”) to perform the functions assigned to it by this Act.

(2) The provisions of the *Schedule* shall have effect in relation to the Board.



**10.—(1)** The general functions of the Board shall be to ensure that each child attends a recognised school or otherwise receives a certain minimum education, and to assist in the formulation and implementation of policies and objectives of the Government for the time being concerning the education of children and, for those purposes, but without prejudice to the generality of the foregoing—

Pt.II  
Functions of Board.

- (a) to promote and foster in society, and in particular in families, an appreciation of the benefits to be derived from education, in particular as respects the physical, intellectual, emotional, social, cultural and moral development of children, and of the social and economic advantages that flow therefrom,
  - (b) to promote and foster, in recognised schools, an environment that encourages children to attend school and participate fully in the life of the school,
  - (c) to conduct and commission research into the reasons for non-attendance on the part of students and into strategies and programmes designed to prevent it,
  - (d) to disseminate to recognised schools the findings of research conducted or commissioned pursuant to *paragraph (c)*, and to advise such schools on matters relating to the prevention of non-attendance, and the good conduct of students generally,
  - (e) to assist recognised schools in so far as is practicable to meet their obligations under this Act,
  - (f) to advise and assist children and the parents of children who exhibit problems relating to attendance at, and behaviour in, school,
  - (g) to support, monitor, and assess the effectiveness of, strategies and programmes aimed at preventing non-attendance in recognised schools,
  - (h) to cooperate with such persons as the Board considers appropriate, and to coordinate the activities of the Board with the activities of those persons in so far as they relate to preventing non-attendance in recognised schools,
  - (i) to carry out reviews of training and guidance given to teachers relating to matters of school attendance and the conduct of students, and to advise the Minister in relation thereto,
  - (j) to advise the National Council for Curriculum and Assessment as respects those aspects of the school curriculum that, in the opinion of the Board, are likely to have an effect on attendance levels at, or the extent of student participation in, school, and
  - (k) to advise the Minister on any matter to which this Act relates.
- (2) The Board shall have all such powers as it considers necessary for the performance of its functions under this Act.

(3) The Board shall, in giving advice or making recommendations to the Minister under this section, have regard to the cost of

Pt.II S.10

measures that would have to be taken if the Minister were to take such advice or implement such recommendations.

(4) The Board may, with the consent of the parent of the child concerned, arrange for a child to be assessed as to his or her intellectual, emotional and physical development (hereafter in this section referred to as “an assessment”) by such person as may be determined by the Board with the concurrence of the parent.

(5) Where a parent refuses to give his or her consent under *subsection (4)*, the Board may apply to the Circuit Court for an order that an assessment of the child be carried out.

(6) The Circuit Court may, if satisfied at the hearing of an application under *subsection (5)* that the child’s behaviour, his or her lack of educational progress or the regularity with which he or she is absent from school without reasonable excuse is such that in all the circumstances the carrying out of an assessment is warranted, order that an assessment of the child be carried out at such time, in such manner, at such place and by such person as may be specified in the order.

(7) An application under *subsection (5)* to the Circuit Court by the Board shall be made to a judge of the Circuit Court for the circuit in which the child concerned resides.

(8) The Board may, in the performance of its functions, consult with such persons as it considers appropriate.

Educational welfare officers.

**11.—(1)** Subject to *section 37*, the Board may appoint such persons or classes of persons as it considers appropriate to be educational welfare officers for the purposes of this Act.

(2) A person appointed under *subsection (1)* shall, on his or her appointment, be furnished by the Board with a warrant of his or her appointment and when exercising a power conferred by this Act shall, if requested by any person thereby affected, produce such warrant to that person for inspection.

(3) An educational welfare officer shall, in addition to the functions conferred on him or her by this Act, perform such additional functions as may be assigned to him or her by the Board.

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

(5) An educational welfare officer shall, where appropriate, act in cooperation with the persons referred to in *subsection (4)*.

Liaison officer.

**12.—(1)** The Board shall, for the purposes of ensuring that, so far as is practicable—

- (a) the activities of the Board, and those of a relevant authority, in so far as they relate to a function of the Board, are coordinated, and

- (b) the policies of the Board, and those of a relevant authority, Pt.II S.12  
in so far as they relate to a function of the Board, are  
consistent,

designate one or more of its officers, not below such rank as the Minister shall determine (who or each of whom shall be known as and is referred to in this section as a "liaison officer"), to liaise with such persons as are designated under *subsections (2) and (3)*, and an officer so designated shall for those purposes, perform such functions as are assigned to him or her by the Board.

(2) A relevant authority (other than a health board, a vocational education committee, the National Council for Curriculum and Assessment or the National Youth Work Advisory Committee) shall for the purposes specified in *subsection (1)*, designate one of his or her officers or a member of his or her staff, as may be appropriate, not below such rank as the Minister shall, after consultation with the relevant authority concerned, determine, to liaise with a liaison officer, and an officer or member of staff so designated shall for those purposes, perform such functions as are assigned to him or her by the relevant authority concerned.

(3) The Chief Executive Officer of a relevant authority (other than a relevant authority to which *subsection (2)* applies) shall for the purposes specified in *subsection (1)*, designate an officer or member of staff, as may be appropriate, of the relevant authority concerned, not below such rank as the Minister shall, after consultation with the Chief Executive Officer concerned, determine, to liaise with a liaison officer, and an officer or member of staff so designated shall for those purposes, perform such functions as are assigned to him or her by the Chief Executive Officer concerned.

(4) A person designated under this section by a relevant authority shall provide the Board with such information as to the policies and activities of the relevant authority concerned in so far as they relate to a function of the Board, as the Board requests or, where the Board has not requested such information, as the relevant authority considers appropriate.

(5) *Subsection (4)* of this section does not apply to information in the possession of a member of the Garda Síochána held for the purpose of preventing, detecting or investigating offences, or apprehending or prosecuting persons who have committed, or who are believed by a member of the Garda Síochána to have committed, offences.

(6) For the purposes of this section, each of the following shall be a relevant authority, that is to say:

- (a) the Minister for Health and Children;
- (b) the Minister for Social, Community and Family Affairs;
- (c) the Minister for Justice, Equality and Law Reform;
- (d) the Minister for Enterprise, Trade and Employment;
- (e) the Minister for Arts, Heritage, Gaeltacht and the Islands;
- (f) the Commissioner of the Garda Síochána;
- (g) a health board;
- (h) a vocational education committee;

Pt.II S.12

- (i) the National Council for Curriculum and Assessment;
- (j) the National Youth Work Advisory Committee; and
- (k) such other persons as may be prescribed by the Minister.

Directions of Minister.

**13.—**(1) The Minister may give a direction in writing to the Board requiring it to comply with policy decisions made by the Minister in relation to the functions of the Board.

(2) The Minister may by direction in writing amend or revoke a direction under this section (including a direction under this subsection).

(3) The Board shall comply with a direction under this section.

### PART III

#### Educational Welfare and Compulsory School Attendance

Register of children receiving education in a place other than a school.

**14.—**(1) The Board shall, on the commencement of this section, cause to be established and maintained a register of all children in receipt of education in a place other than a recognised school (hereafter in this section referred to as “the register”).

(2) Subject to *subsection (3)*, where a parent chooses to educate, or have educated, his or her child in a place other than a recognised school he or she shall, in accordance with this section, apply to the Board to have the child concerned registered in the register.

(3) The parent of a child who immediately before the commencement of this section is being educated in a place other than a recognised school shall, if he or she wishes the child to continue to be so educated, apply, not later than 3 months after such commencement, to the Board to have the child concerned registered in the register.

(4) An application under this section shall—

- (a) be in writing,
- (b) specify the place at which the child receives the education to which the application relates, and
- (c) comply with such requirements (if any) as may be prescribed by the Minister or developed by the Board with the approval of the Minister.

(5) As soon as practicable after an application under this section is received by the Board, the Board shall, for the purpose of determining whether the child is receiving a certain minimum education, cause an authorised person to carry out, in consultation with the parent who made the application, an assessment of—

- (a) the education that is being provided, or that it is proposed will be provided, to the child,
- (b) the materials used, or that it is proposed will be used, in the provision of such education, and
- (c) the time spent, or that it is proposed will be spent, in the provision of such education,

and if, after receiving a report under *subsection (8)* in respect of such assessment, the Board is of opinion that it is unable to determine the said matter, it shall, with the consent of the said parent, cause an authorised person to— Pt.III S.14

- (i) enter the place at which the child is being educated and observe the child receiving the education that is being provided to him or her,
- (ii) inspect such premises, equipment and materials as are used in the provision of education to the child, and
- (iii) carry out an assessment of the child, in the said place or such other place as the Board considers appropriate, as to his or her intellectual, emotional and physical development, which shall include an assessment of his or her knowledge and understanding of such subjects, and proficiency in such exercises and disciplines, as the authorised person considers appropriate,

and the performance of any or all of the functions referred to in this subsection by an authorised person is hereafter referred to in this section as an “assessment”.

(6) Where the Board, having received a report submitted under this section in respect of a child who is a student at a school other than a recognised school, is satisfied that the school is providing a certain minimum education to children who are students at that school it may, without carrying out any further assessments, register any or all of such children in the register, provided that the school concerned notifies the Board in writing that the children concerned are students at that school.

(7) An authorised person may, in respect of a registered child, carry out assessments at such intervals (if any) as may be specified by the Board, and accordingly *subsection (5)* shall apply with the necessary modifications.

(8) An authorised person shall, as soon as may be after completing an assessment under this section, prepare and submit to the Board a report of his or her findings in relation to such assessment.

(9) The Board shall serve a copy of a report received by it under this section on the parent of the child to whom the report relates and shall invite such parent to make representations to the Board concerning the matters to which the report relates.

(10) As soon as may be after considering a report submitted under this section, in respect of a child to whom an application under this section relates, and any representations made to it by the parent of the child concerned, the Board shall—

- (a) if satisfied that the child concerned is receiving a certain minimum education, register the child concerned in the register, or
- (b) if not so satisfied—
  - (i) register the child in the register subject to the parent of the child undertaking to comply with such requirements of the Board as in its opinion will ensure that the child receives a certain minimum education, or

(ii) refuse to register the child concerned in the register.

(11) An undertaking to which *paragraph (b)(i) of subsection (10)* applies shall be in writing and shall be given within such period as may be specified by the Board.

(12) After considering a report submitted under this section in respect of a registered child, and any representations made to it by the parent of the child concerned, the Board shall—

(a) if not satisfied that the child is receiving a certain minimum education—

(i) remove the child's name from the register, or

(ii) require the parent of the child to undertake in writing to comply with such conditions as, in the opinion of the Board, will ensure that the child receives a certain minimum education,

or

(b) if not satisfied that the parent of the child is abiding by an undertaking given pursuant to *paragraph (b)(i) of subsection (10)*, or *paragraph (a)(ii)* or complying with a requirement under *section 15(6)(c)*, remove the child's name from the register.

(13) Where the parent of a child fails or refuses—

(a) to give his or her consent to the carrying out, within such period as may be specified by the Board, of an assessment in accordance with *subsection (5) or (7)*, or

(b) to give an authorised person such assistance as he or she may require for the purpose of carrying out an assessment,

the Board shall—

(i) in the case of an application to have that child registered in the register, refuse to so register the child, or

(ii) in the case of a registered child, remove his or her name from the register maintained under this section.

(14) Where the Board decides to register a child under *paragraph (a) or (b)(i) of subsection (10)*, it shall cause the name of the child and such other particulars as may be prescribed by the Minister to be entered in the register and the child shall thereupon be registered for the purposes of this section.

(15) The parent of a registered child shall, if a particular entered in the register in accordance with *subsection (14)* ceases to be correct, so inform the Board as soon as may be.

(16) The Board shall not remove a child's name from the register solely on the ground that the child concerned is prevented from receiving a certain minimum education due to illness, whether of a permanent or temporary nature.

(17) The Board shall, as soon as may be after registering under *paragraph (a) or (b)(i) of subsection (10)* a child who is registered at a recognised school, so inform by notice in writing the principal of that school, and the principal concerned shall, on receipt of such

notification, remove the child's name from the register maintained under *section 20* in respect of the school concerned. Pt.III S.14

(18) The Board shall, in the performance of its functions under this section, have regard to such guidelines as may be issued, or such recommendations as may be made, by the Minister under *section 16*.

(19) This section does not apply to—

- (a) a child who is being educated at a school outside the State, or
- (b) a child who is participating in a programme of education, training, instruction or work experience prescribed by the Minister.

(20) (a) In this section—

“authorised person” means an inspector, educational welfare officer or a person appointed by the Board to perform the functions of an authorised person under this section;

“registered child” means a child who, for the time being, is registered in the register in accordance with this section.

- (b) For the purposes of this section, the registering of a child in the register shall consist of the entering, in the register, of his or her name and such other particulars relating to the child as may be determined by the Board.

15.—(1) Where the Board—

Appeal against  
decision of Board.

- (a) refuses, in accordance with *paragraph (b)(ii) of subsection (10) of section 14*, to register a child in the register maintained under that section,
- (b) agrees to register the child in that register in accordance with *paragraph (b)(i) of the said subsection (10)*,
- (c) removes a child's name from that register in accordance with *subsection (12) of that section*, or
- (d) requires the giving of an undertaking in accordance with *paragraph (a)(ii) of the said subsection (12)*,

(hereafter in this section referred to as a “decision”), it shall so inform the parent of the child concerned by notice in writing and the parent of the child concerned may appeal against the decision and for that purpose shall serve a notice of appeal on the Minister within 21 days of his or her receiving the first-mentioned notice.

(2) A notice of appeal under *subsection (1)* shall be in writing and shall be in such form (if any) as may be prescribed by the Minister.

(3) The Minister shall within 14 days of receiving a notice of appeal under *subsection (1)* appoint a committee to hear and determine an appeal under this section (hereafter in this section referred to as an “appeal committee”).

Pt.III S.15

(4) An appeal committee shall consist of such judge of the District Court as shall be nominated by the President of the District Court, such inspector and such other person (other than an officer of the Minister or of the Board) as may be appointed thereto by the Minister.

(5) An appeal committee shall invite the parent of the child concerned and the authorised person who prepared and submitted the report under *subsection (8) of section 14*, to make submissions to it concerning the matters to which the appeal relates.

(6) The appeal committee shall, having considered any submissions made to it pursuant to *subsection (5)* and the report referred to in that subsection—

- (a) affirm the decision of the Board,
- (b) require the Board to register the child concerned in the register maintained under *section 14*, or
- (c) require the Board to register the child concerned in the said register subject to the parent of the child undertaking to comply with such requirements as the appeal committee considers appropriate.

(7) The Board shall comply with a requirement of an appeal committee under *subsection (6)*.

Minister may issue guidelines and make recommendations.

**16.**—The Minister may, after consultation with the National Council for Curriculum and Assessment and such other persons (if any) as the Minister considers appropriate—

- (a) issue guidelines, and
- (b) make recommendations of a general nature,

to the Board, for the purpose of assisting the Board in determining whether a child is receiving a certain minimum education.

Parent to cause child to attend school.

**17.**—(1) Subject to *subsection (2)*, the parent of a child shall cause the child concerned to attend a recognised school on each school day.

(2) A child shall not be required to attend a recognised school where—

- (a) he or she is registered in the register maintained under *section 14*,
- (b) an application under that section in respect of the child has been served on the Board but the Board has not made a decision in relation thereto, or a notice of appeal under *section 15* has been served on the Minister but an appeal committee has not made a determination in relation to the appeal,
- (c) he or she is a child to whom *subsection (3) of section 14* applies and the period of 3 months referred to therein has not expired,



[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

- (d) the child is temporarily attending a school outside the State and the parent of the child has notified the school at which the child is registered of the reason for his or her non-attendance at the second-mentioned school, Pt.III S.17
- (e) he or she is a child referred to in *subsection (19) of section 14*,
- (f) he or she is receiving a certain minimum education pursuant to an arrangement made by the Board under *section 27(2)*, or
- (g) there exists some other sufficient cause for his or her not so attending.

**18.**—Where a child is absent from the school at which he or she is registered during part of a school day, or for a school day or more than a school day, the parent of such child shall, in accordance with procedures specified in the code of behaviour prepared by the school under *section 23*, notify the principal of the school of the reasons for the child's absence. Notification of child's absence from school.

**19.**—(1) The board of management of a recognised school shall not refuse to admit as a student in such school a child, in respect of whom an application to be so admitted has been made, except where such refusal is in accordance with the policy of the recognised school concerned published under *section 15(2)(d)* of the Act of 1998. Admission of child to recognised school.

(2) The parent of a child who has made an application referred to in *subsection (1)* shall provide the recognised school concerned with such information as may be prescribed by the Minister.

(3) As soon as practicable, but not later than 21 days, after a parent has provided, in accordance with *subsection (2)*, such information as may be prescribed by the Minister thereunder, the board of management of the school concerned shall make a decision in respect of the application concerned and inform the parent in writing thereof.

**20.**—(1) The principal of a recognised school shall, as soon as may be after the commencement of this section, cause to be established and maintained a register of all students attending that school. School registers.

(2) The principal of a recognised school shall, on the day on which the child first attends that school, enter the child's name, the date of his or her first so attending and such other particulars as may be prescribed by the Minister, in the register maintained under this section in respect of that school, and the child concerned shall, for the purposes of this Act, be deemed, as on and from that date, to be registered in that school.

(3) The principal of a recognised school shall, as soon as may be after entering in the register maintained under this section in respect of that school the name of a child who is registered in another recognised school, so inform by notification in writing the principal of the second-mentioned school.

(4) The principal of the second-mentioned school referred to in *subsection (3)* shall, on receipt of a notification under that subsection, remove the name of the child concerned from the register maintained under this section in respect of the said second-mentioned

school except where the child continues to receive part of his or her education at that school.

(5) The principal of a recognised school shall, on receiving a notification under *subsection (3)* in relation to a child, notify the principal of the school first-mentioned in that subsection of—

- (a) any problems relating to school attendance that the child concerned had while attending the second-mentioned school referred to therein, and
- (b) such other matters relating to the child's educational progress as he or she considers appropriate.

(6) The principal of a recognised school shall not remove a child's name from the register other than—

- (a) in accordance with *subsection (4)*, or
- (b) where he or she has received a notification in writing from the Board that the child concerned is registered in the register maintained under *section 14*.

School attendance records.

**21.—(1)** The principal of a recognised school shall cause to be maintained in respect of each school year a record of the attendance or non-attendance on each school day of each student registered at that school.

(2) A record maintained under *subsection (1)* shall specify the following, that is to say:

- (a) where a student attends at the school concerned on a school day, the fact of his or her attendance, or
- (b) where a student fails to so attend, the fact of his or her failure and the reasons for such failure.

(3) A record to which this section applies shall be maintained at the recognised school concerned and shall be in such form as may be specified by the Board.

(4) Where—

- (a) a student is suspended from a recognised school for a period of not less than 6 days,
- (b) the aggregate number of school days on which a student is absent from a recognised school during a school year is not less than 20,
- (c) a student's name is, for whatever reason, removed from the register referred to in *section 20* by the principal of the school concerned, or
- (d) a student is, in the opinion of the principal of the recognised school at which he or she is registered, not attending school regularly,

the principal of the school concerned shall forthwith so inform, by notice in writing, an educational welfare officer.

[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

(5) On receiving a notice under *subsection (4)*, an educational welfare officer shall— Pt.III S.21

- (a) consult with the student concerned, his or her parents, the principal and such other persons as he or she considers appropriate, and
- (b) make all reasonable efforts to ensure that provision is made for the continued education of the child and his or her full participation in school.

(6) The board of management of a recognised school shall, not later than 6 weeks after the end of each school year, submit a report to—

- (a) the educational welfare officer who has been assigned functions under this Act in relation to that school, and
- (b) the parents' association of the recognised school concerned established under section 26 of the Act of 1998 (where so established),

on the levels of attendance at that school during the immediately preceding school year.

(7) A report under *subsection (6)* shall be in such form and comply with such requirements as may be determined by the Board.

(8) An educational welfare officer may during any school day enter a recognised school and inspect the register maintained at that school under *section 20* or a record to which this section applies, and take copies of extracts from such register or record.

(9) For the purposes of this section a student shall be deemed not to be absent from school where any period of absence is authorised by the principal and relates to activities organised by the school or in which the school is involved.

**22.—**(1) The board of management of a recognised school shall, after consultation with the principal of, teachers teaching at, parents of students registered at, and the educational welfare officer assigned functions in relation to, that school, prepare and submit to the Board a statement of the strategies and measures it proposes to adopt for the purposes of fostering an appreciation of learning among students attending that school and encouraging regular attendance at school on the part of such students (hereafter in this section referred to as a "statement of strategy"). School attendance strategies.

(2) Without prejudice to the generality of *subsection (1)*, a statement of strategy shall provide for—

- (a) the rewarding of students who have good school attendance records;
- (b) the identification at an early stage of students who are at risk of developing school attendance problems;
- (c) the establishment of closer contacts between the school concerned and the families of students to which *paragraph (b)* applies;

(d) the fostering, promoting and establishing of contacts by the school with—

- (i) other schools that provide primary or post-primary education,
- (ii) bodies engaged in the provision of youth work programmes or services related thereto, or engaged in the organising of sporting or cultural activities, and
- (iii) such other bodies within the area in which the school concerned is situated as the board of management considers appropriate;

(e) in so far as is practicable, the development, following consultation with the bodies referred to in *paragraph (d)*, of programmes of activities designed to encourage the full participation of students in the life of the school;

(f) in so far as is practicable, the coordination with other schools of programmes aimed at promoting good behaviour among students and encouraging regular attendance at school by students, and the exchanging of information relating to matters of behaviour and school attendance with such schools;

(g) the identification of—

(i) aspects of the operation and management of the school and of the teaching of the school curriculum that may contribute to problems relating to school attendance on the part of certain students, and

(ii) strategies—

(I) for the removal of those aspects in so far as they are not necessary or expedient for the proper and effective running of the school having regard, in particular, to the educational needs of students, and

(II) that will encourage more regular attendance at school on the part of such students.

(3) The board of management of a recognised school shall, in preparing a statement of strategy, have regard to such guidelines issued by the Board regarding the preparation and carrying into effect of statements of strategy.

(4) A statement of strategy prepared and submitted by the board of management of a recognised school, in accordance with *subsection (1)*, shall be carried out by that board of management in accordance with its terms.

(5) The board of management of a recognised school may, with the consent of the Minister, and for the purpose of giving effect to a statement of strategy prepared and submitted by it in accordance with this section, appoint such and so many teachers employed by it, as it considers appropriate, to liaise with the parents of students registered at the school concerned and to give such assistance to the families of those students as the board of management concerned considers appropriate.

[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

(6) Two or more boards of management of recognised schools may, if they consider it appropriate, coordinate, and cooperate in, the carrying out of the statements of strategies prepared and submitted by them, in accordance with *subsection (1)*. Pt.III S.22

(7) The Board shall issue guidelines to boards of management of recognised schools for the purposes of this section.

(8) The statement of strategy prepared by the board of management of a recognised school shall be included in the plan prepared by it under section 21 of the Act of 1998.

**23.—**(1) The board of management of a recognised school shall, after consultation with the principal of, the teachers teaching at, the parents of students registered at, and the educational welfare officer assigned functions in relation to, that school, prepare, in accordance with *subsection (2)*, a code of behaviour in respect of the students registered at the school (hereafter in this section referred to as a “code of behaviour”). Code of behaviour.

(2) A code of behaviour shall specify—

- (a) the standards of behaviour that shall be observed by each student attending the school;
- (b) the measures that may be taken when a student fails or refuses to observe those standards;
- (c) the procedures to be followed before a student may be suspended or expelled from the school concerned;
- (d) the grounds for removing a suspension imposed in relation to a student; and
- (e) the procedures to be followed relating to notification of a child’s absence from school.

(3) A code of behaviour shall be prepared in accordance with such guidelines as may, following consultation by the Board with national associations of parents, recognised school management organisations and trade unions and staff associations representing teachers, be issued by the Board.

(4) The principal of a recognised school shall, before registering a child as a student at that school in accordance with *section 20*, provide the parents of such child with a copy of the code of behaviour in respect of the school and may, as a condition of so registering such child, require his or her parents to confirm in writing that the code of behaviour so provided is acceptable to them and that they shall make all reasonable efforts to ensure compliance with such code by the child.

(5) The principal of a recognised school shall, on a request being made by a student registered at the school or a parent of such a student, provide the student or parent, as the case may be, with a copy of the code of behaviour in respect of the school concerned.

**24.—**(1) Where the board of management of a recognised school or a person acting on its behalf is of the opinion that a student should be expelled from that school it shall, before so expelling the student, notify the educational welfare officer to whom functions under this Expulsion of student from recognised school.

Act have been assigned, in writing, of its opinion and the reasons therefor.

(2) The educational welfare officer concerned shall, as soon as may be after receiving a notification under *subsection (1)*, make all reasonable efforts to ensure that provision is made for the continued education of the student to whom the notification relates.

(3) For the purposes of *subsection (2)*, the educational welfare officer concerned shall, as soon as may be after receiving the said notification—

(a) make all reasonable efforts to consult with the principal of the school concerned or a person nominated by him or her, the student concerned and his or her parents, and such other persons as the educational welfare officer considers appropriate, and

(b) convene a meeting attended by him or her of such of those persons as agree to attend such meeting.

(4) A student shall not be expelled from a school before the passing of 20 school days following the receipt of a notification under this section by an educational welfare officer.

(5) *Subsection (4)* is without prejudice to the right of a board of management to take such other reasonable measures as it considers appropriate to ensure that good order and discipline are maintained in the school concerned and that the safety of students is secured.

School attendance notice.

**25.—**(1) Subject to *section 17(2)*, the Board shall, if of opinion that a parent is failing or neglecting to cause his or her child to attend a recognised school in accordance with this Act, serve a notice (hereafter in this section referred to as a “school attendance notice”) on such parent—

(a) requiring him or her on the expiration of such period as is specified in the notice, to cause his or her child named in the notice to attend such recognised school as is specified in the notice, and there to attend on each school day that the notice is in force, and

(b) informing him or her that if he or she fails to comply with a requirement under *paragraph (a)* he or she shall be guilty of an offence.

(2) A school attendance notice under this section shall remain in force for such period as may be specified in the notice or until it is revoked by the Board.

(3) Before making a school attendance notice the Board shall, in such manner as it considers appropriate, make all reasonable efforts to consult with—

(a) the parents of the child concerned, and

(b) the principal of the recognised school that the Board proposes to specify in such notice,

and shall, when so specifying a recognised school, have regard, as far as is practicable, to the preference (if any) expressed by the said parents.

(4) A person who contravenes a requirement in a school attendance notice shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500, or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

(5) A person guilty of an offence under *subsection (4)* shall, on each day after having been convicted of such offence on which he or she continues to contravene a requirement in the school attendance notice to which that offence relates, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200, or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

(6) In proceedings for an offence under this section it shall be a defence for a parent to show that he or she has made all reasonable efforts to cause the child to whom the proceedings relate to attend a recognised school in accordance with this Act.

(7) In proceedings for an offence under this section the burden of proving that—

- (a) the person to whom the prosecution relates is not a child,
- (b) under *section 17(2)(d)* or *(g)* the child to whom the prosecution relates is not required to attend a recognised school, or
- (c) the child to whom the prosecution relates is being educated outside the State,

shall be on the defendant.

(8) Where a parent—

- (a) is convicted of an offence under this section, or
- (b) in proceedings for such an offence, shows, in accordance with *subsection (6)*, that he or she has made all such efforts as are referred to in that subsection,

the Board shall forthwith so inform in writing the health board of the area in which that parent resides.

**26.—(1)** The Board may appeal a decision to which paragraph (a) or (c) of subsection (1) of section 29 of the Act of 1998 applies and accordingly a reference in the said subsection (1) to “parent of the student” or “student” shall be construed as including a reference to the Board.

Right of Board to appeal etc. decision of board of management under section 29 of Act of 1998.

(2) Section 29 of the Act of 1998 is hereby amended by the insertion of the following subsection:

“(4A) The National Educational Welfare Board may, at the hearing of an appeal brought by a parent or student against a decision to which paragraph (a) or (c) of subsection (1) applies, make such submissions (whether in writing or orally) to the appeals committee, as it considers appropriate.”.

**27.—(1)** Where a decision to which paragraph (a) or (c) of section 29 of the Act of 1998 applies is upheld by an appeal committee appointed under that section or where no appeal is brought against such a decision the Board shall make all reasonable efforts to have

Micellaneous duties of Board in relation to certain children and parents of certain children.

Pt.III S.27

the child to whom the decision concerned relates enrolled in another recognised school.

(2) Where the Board, having made all such reasonable efforts as are referred to in *subsection (1)*, fails to have the child concerned enrolled in another recognised school it shall, with the consent of the parents of the child and the Minister, make such other arrangements as it considers appropriate to ensure that the child receives a certain minimum education and shall monitor the progress of the child's education.

(3) A parent who is experiencing problems in ensuring that his or her child attends school regularly may request the advice and assistance of the Board in relation thereto, and the Board shall, on receiving such a request, give to the parent concerned all such advice and assistance as it considers appropriate.

Supply of personal data etc. to prescribed bodies.

**28.**—(1) The data controller of a prescribed body may supply personal data kept by him or her, or information extracted from such data, to the data controller of another prescribed body if he or she is satisfied that it will be used for a relevant purpose only.

(2) The data controller of a prescribed body may, for a relevant purpose only, keep and use personal data supplied to him or her under this section.

(3) In this section—

“data controller” and “personal data” have the meanings assigned to them by the Data Protection Act, 1988;

“prescribed body” means a body prescribed by the Minister;

“relevant purpose” means the purpose of—

(a) recording a person's educational or training history or monitoring his or her educational or training progress in order to ascertain how best he or she may be assisted in availing of educational or training opportunities or in developing his or her full educational potential, or

(b) carrying out research into—

(i) the extent to which persons in receipt of, or who have received, a certain minimum education present for examinations to which Part VIII of the Act of 1998 applies, and the performance in such examinations of persons who so present,

(ii) the extent to which persons who have received a certain minimum education participate further in programmes of education, training or instruction, or

(iii) the general effectiveness of educational or training programmes.

Register of young persons in employment.

**29.**—(1) The Board shall, as soon as may be after the coming into operation of this section, cause to be established and maintained a register of young persons (hereafter in this section referred to as “the register”).



[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

(2) Any young person may apply to the Board to be registered in the register. Pt.III S.29

(3) Any child who will, at the end of a school year cease to be a child for the purposes of this Act may, during that school year, apply to the Board to be registered in the register.

(4) An application under this section shall be in such form and contain such particulars as may be prescribed by the Minister.

(5) The Board shall, as soon as practicable after receiving an application under this section, and after consultation with the child or young person concerned, his or her parents and such other persons as the Board considers appropriate, prepare a plan, for the purpose of assisting that child or young person, as the case may be, to avail of educational and training opportunities, and shall for the purposes of ensuring that such plan will be carried out, give all such other assistance to such child or young person and his or her parents as it considers appropriate.

(6) The Board shall, as soon as may be after it has prepared a plan under *subsection (5)*—

(a) enter the name of the child or young person concerned, particulars of the plan and such other particulars as the Board considers appropriate, in the register, and

(b) issue a certificate of registration to that child or young person, as the case may be (hereafter in this section referred to as a “certificate”), which shall contain such particulars as the Board considers appropriate.

(7) Where the Board is of the opinion that a young person to whom a certificate has been issued is failing to make all reasonable efforts to carry out the plan prepared for him or her under *subsection (5)* it may, if satisfied that it would not be in the young person’s best interests to continue in employment without also continuing to carry out the plan, withdraw the certificate issued to him or her.

(8) Before withdrawing a certificate under *subsection (7)* the Board shall, by notice in writing—

(a) inform the young person concerned, his or her parents and his or her employer of its intention to withdraw the certificate issued to him or her, and

(b) invite the young person concerned and his or her parents, within 21 days from the service of the notice, to make representations to the Board concerning the matter,

and the Board shall take into consideration any such representations in making a decision in relation to the matter.

(9) An employer shall not employ a young person on any work unless the young person is the holder of a valid certificate, and the employer shall make and retain a copy of each such certificate.

(10) An employer shall as soon as practicable but in any case not later than one month after the young person concerned has commenced employment with the employer so inform the Board by notice in writing, and the employer shall retain a copy of such notice.

(11) An employer shall, upon a request being made to him or her in that behalf by an educational welfare officer, produce to the educational welfare officer a copy of a certificate or a notice under *subsection (10)* relating to such young person as may be specified by the educational welfare officer.

(12) A notice under *subsection (10)* shall contain such other particulars as may be prescribed by the Minister.

(13) Before prescribing anything under this section, the Minister shall—

- (a) consult the Minister for Enterprise, Trade and Employment,
- (b) consult such representatives of employers and representatives of employees as the Minister, with the concurrence of the Minister for Enterprise, Trade and Employment, considers appropriate, and
- (c) publish in such manner as the Minister thinks fit, notice of his or her intention to so prescribe, and permit, within 21 days of such publication, the making of representations by any person in relation to the proposed regulations.

(14) An employer who contravenes *subsection (9)* or *(10)* or who fails or refuses to comply with a request under *subsection (11)*, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months.

(15) A person guilty of an offence under *subsection (14)* shall, on each day on which the contravention to which that offence relates is continued by him or her after having been convicted of that offence, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200 or to imprisonment for a term not exceeding one month, or to both.

(16) This section does not apply to a young person who—

- (a) is registered at a recognised school,
- (b) is engaged in, or has completed (having attained such standard as may be prescribed by the Minister), a course of study (within the meaning of the Regional Technical Colleges Act, 1992), or
- (c) is engaged in or has completed (having attained such standard as may be prescribed by the Minister) a prescribed programme of education, training or instruction prescribed by the Minister.

(17) In this section—

“employee” has the meaning assigned to it by the Act of 1996;

“employer” has the meaning assigned to it by the Act of 1996;

“young person” means a person (other than a child) who is of an age prescribed by the Minister but shall not include a person who has reached the age of 18 years.

**30.—(1)** An educational welfare officer may, for the purposes of *section 29*, do all or any of the following—

Pt. III

Functions of  
educational welfare  
officers.

- (a) at all reasonable times enter, subject to *subsection (5)*, any premises or place where he or she has reasonable grounds for believing that any young person is employed in work or from which he or she has reasonable grounds for believing that the activities that a young person is employed to carry on are directed or controlled (whether generally or in respect of particular matters),
- (b) make such examination or enquiry as may be necessary for ascertaining whether the provisions of *section 29* are complied with in respect of any young person employed in any such premises or place or any young person the activities aforesaid of whom are directed or controlled from any such premises or place,
- (c) require the employer of any young person or the representative of such employer to produce to him or her any records that such employer is required to keep and inspect and take copies of entries in such records (including in the case of information in a non-legible form a copy of or a copy of an extract from such information in a permanent legible form),
- (d) require any person whom he or she has reasonable cause to believe to be, or to have been, an employee or the employer of any employee to furnish such information as the educational welfare officer may reasonably request,
- (e) examine with regard to any matters under *section 29* any person whom he or she has reasonable cause to believe to be, or to have been, an employer or employee and require him or her to answer such questions (other than questions tending to incriminate him or her) as the educational welfare officer may put relative to those matters and to make a declaration of the truth of the answers to such questions.

(2) An educational welfare officer shall not enter a private dwelling (other than a part of a dwelling used as a place of work)—

- (a) without the consent of the occupier, or
- (b) in accordance with a warrant issued under *subsection (5)*.

(3) Where an educational welfare officer in the exercise of his or her powers under this section is prevented from entering any premises an application may be made for a warrant under *subsection (5)* authorising such entry.

(4) An educational welfare officer may, where he or she considers it necessary, be accompanied by a member of the Garda Síochána when exercising any power conferred on an educational welfare officer by this section.

(5) On the application of an educational welfare officer, a judge of the District Court may, if satisfied that there are reasonable grounds for believing that information required by an educational welfare officer under this section is held on any premises or any part of any premises, issue a warrant authorising a named educational

Pt.III S.30

welfare officer accompanied by such other educational welfare officers or members of the Garda Síochána as may be necessary, at any time or times within one month from the date of issue of the warrant, on production, of the warrant (if so requested), to enter the premises (if necessary by using reasonable force) and perform all or any of the functions of an educational welfare officer under *subsection (1)*.

(6) A person who—

- (a) obstructs or impedes an educational welfare officer in the exercise of any of the powers conferred on an educational welfare officer under this section,
- (b) refuses to produce any record which an educational welfare officer lawfully requires him or her to produce,
- (c) produces or causes to be produced or knowingly allows to be produced, to an educational welfare officer, any record which is false or misleading in any material respect knowing it to be so false or misleading,
- (d) gives to an educational welfare officer any information which is false or misleading in any material respect knowing it to be so false or misleading, or
- (e) fails or refuses to comply with any lawful requirement of an educational welfare officer under *subsection (1)(c)*,

shall be guilty of an offence.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months, or to both.

Amendment of Act of 1996.

**31.**—Section 1 of the Act of 1996 is hereby amended by—

(a) the substitution of the following definition for the definition of “child”:

“ ‘child’ means a person who has not reached the age of 16 years;”,

(b) the deletion of the definition of “school leaving age”, and

(c) the substitution of the following definition for the definition of “young person”:

“ ‘young person’ means a person who has reached the age of 16 years but has not reached the age of 18 years.”.

#### PART IV

##### Provisions Relating to Finance and Staff of Board

Grants to Board.

**32.**—The Minister may, with the consent of the Minister for Finance, advance to the Board out of moneys provided by the Oireachtas such sums as the Minister may determine.

[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

**33.—**(1) The Board shall keep, in such form as may be approved Pt.IV  
of by the Minister with the consent of the Minister for Finance, all Accounts and  
proper and usual accounts of all moneys received or expended by it audits.  
and all such special accounts (if any) as the Minister, with the consent  
of the Minister for Finance, may direct.

(2) Accounts kept in pursuance of this section shall be submitted, not later than the 31st day of March in the year immediately following the accounting period to which they relate or on such other earlier date as the Minister may, from time to time, specify, by the Board to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the accounts, and of such other (if any) accounts kept pursuant to this section as the Minister, after consultation with the Minister for Finance, may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall as soon as may be cause copies thereof to be laid before each House of the Oireachtas.

**34.—**(1) The Board shall not later than the 31st day of March in each year prepare and submit to the Minister a report on its activities in the immediately preceding year and the Minister shall, as soon as may be, cause copies of the report to be laid before each House of the Oireachtas. Reports and information.

(2) The Board shall furnish the Minister with such information regarding the performance of its functions as the Minister may from time to time require.

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

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

**36.—**(1) There shall be a chief executive of the Board (who shall be known and is referred to in this Act as "the Chief Executive"). Chief Executive.

(2) The Chief Executive shall carry on and manage, and control generally, the administration and business of the Board and perform such other functions (if any) as may be determined by the Board.

(3) The Chief Executive shall be appointed and may be removed from office by the Board, with the consent of the Minister.

(4) The Chief Executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances) as may be determined by the Board with the consent of the Minister and the Minister for Finance.

**37.—**(1) The Board shall appoint, with the consent of the Minister and the Minister for Finance, such and so many persons to be members of the staff of the Board as it may from time to time determine. Staff.

(2) The terms and conditions of service of a member of the staff of the Board shall, with the consent of the Minister and the Minister

Pt.IV S.37

for Finance, be such as may be determined from time to time by the Board.

(3) There shall be paid by the Board to the members of its staff such remuneration and allowances as, from time to time with the consent of the Minister and the Minister for Finance, the Board determines.

Remuneration of staff.

**38.**—The Board, in determining the remuneration or allowances for expenses to be paid to members of its staff or the other terms or conditions subject to which such members hold or are to hold their employment, shall have regard to Government or nationally agreed guidelines which are for the time being extant and to Government policy concerning remuneration and conditions of employment which is so extant and, in addition to the foregoing, the Board shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to the Board with the consent of the Minister for Finance.

Performance of functions of Board by members of staff.

**39.**—The Board may perform any of its functions through or by any member of the staff of the Board duly authorised in that behalf by the Board.

Transfer of staff.

**40.**—(1) Every person (other than a member of the Garda Síochána) who immediately before the commencement of this Act is a school attendance officer shall be transferred to and become a member of the staff of the Board.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, while in the service of the Board be brought to less beneficial conditions of service (including conditions in relation to tenure of office) or of remuneration than the conditions of service (including conditions in relation to tenure of office) or remuneration to which he or she was subject immediately before the commencement of this section.

(3) In relation to persons transferred to the Board under *subsection (1)*, previous service in a local authority shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1991, the Worker Protection (Regular Part-Time Employees) Act, 1991, the Organisation of Working Time Act, 1997, the Minimum Notice and Terms of Employment Acts, 1973 to 1991, and the Unfair Dismissals Acts, 1977 to 1993.

Superannuation.

**41.**—(1) As soon as may be after its establishment, the Board shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such of its staff (including the Chief Executive) as the Board shall think fit.

(2) Every such scheme shall fix the time and conditions of retirement for all persons to, or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) The Board may at any time prepare and submit to the Minister a scheme amending a scheme previously submitted and approved under this section.

(4) A scheme or amending scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Board in accordance with its terms.

(5) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance whose decision shall be final.

(6) No superannuation benefit shall be granted by the Board to or in respect of any of its staff (including the Chief Executive) who are members of a scheme under this section, nor shall any other arrangement be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with such scheme or schemes submitted and approved under this section.

(7) The Minister shall cause every scheme submitted and approved under this section to be laid before each House of the Oireachtas as soon as may be after it is approved, and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

## SCHEDULE

### *Section 9.*

### National Educational Welfare Board

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

(2) The seal of the Board shall be authenticated by the signature of the chairperson of the Board or by the signatures of both an ordinary member and a member of the staff of the Board authorised by the Board to act in that behalf.

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

2. (1) The Board shall consist of the following members, that is to say:

(a) a chairperson, who shall be appointed by the Minister from among persons having, in the opinion of the Minister, a special interest and expertise in matters relating to the functions of the Board,

(b) 12 ordinary members, of whom—

(i) one shall be the Chief Executive,

[No. 22.] *Education (Welfare) Act, 2000.* [2000.]

Sch.

- (ii) one shall be appointed by the Minister after consultation by him or her with national associations of parents,
- (iii) one shall be appointed by the Minister after consultation by him or her with recognised school management organisations,
- (iv) one shall be appointed by the Minister after consultation by him or her with trade unions and staff associations representing teachers,
- (v) one shall be appointed by the Minister after consultation by him or her with educational welfare officers,
- (vi) one shall be appointed by the Minister after consultation by him or her with voluntary or other bodies that have objects that the Minister considers relate to matters in respect of which the Board performs functions, and
- (vii) 6 shall be appointed by the Minister after consultation by him or her with the Minister for Health and Children, the Minister for Justice, Equality and Law Reform, the Minister for Social, Community and Family Affairs, the Minister for Enterprise, Trade and Employment and the Minister for Tourism, Sport and Recreation, from among persons who in the opinion of the Minister have a special interest and expertise in matters relating to the functions of the Board.

(2) The chairperson of the Board shall hold office for a period of 5 years from the date of his or her appointment.

(3) An ordinary member of the Board (other than the Chief Executive) shall hold office for a period of 3 years from the date of his or her appointment.

(4) A member of the Board whose term of office expires by the effluxion of time shall be eligible for reappointment to the Board.

(5) Upon the expiration of the first term of office of a person first appointed to be a member of the Board or on such a member otherwise ceasing to be a member of the Board, and on each subsequent occasion thereafter when the term of office of a member of the Board expires or a member of the Board otherwise ceases to be a member of the Board, the Minister shall exercise his or her powers under *subparagraph (1)* so that the result referred to in *subparagraph (6)* is achieved.

(6) The result mentioned in *subparagraph (5)* is that at any particular time not less than 3 members of the Board are persons who were not previously appointed to be members of the Board.

3. (1) The Minister may at any time remove from office a member of the Board.

(2) A member of the Board may resign from office by notice in writing given to the Minister and the resignation shall take effect on the date on which the Minister receives the notice.



[2000.] *Education (Welfare) Act, 2000.* [No. 22.]

(3) A member of the Board shall cease to be qualified for office Sch. and shall cease to hold office if—

- (a) he or she is adjudicated bankrupt,
- (b) he or she makes a composition or arrangement with creditors,
- (c) he or she is convicted of any indictable offence in relation to a company,
- (d) he or she is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,
- (e) he or she is the subject of an order under section 160 of the Companies Act, 1990, or
- (f) he or she is sentenced to a term of imprisonment by a court of competent jurisdiction.

(4) A member of the Board shall, subject to the provisions of this Act, hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances) as may be determined by the Minister, with the consent of the Minister for Finance.

4. (1) If a member of the Board dies, resigns, ceases to be qualified for office and ceases to hold office or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned in the same manner as the member of the Board who occasioned the casual vacancy was appointed.

(2) A person appointed to be a member of the Board pursuant to this paragraph shall hold office for that period of the term of office of the member who occasioned the casual vacancy concerned that remains unexpired at the date of his or her appointment and shall be eligible for reappointment as a member of the Board on the expiry of the said period.

5. The chairperson and each ordinary member of the Board shall be paid by the Board such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Finance, may determine.

6. (1) The Board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions.

(2) At a meeting of the Board—

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

(3) Every question at a meeting shall be determined by a majority of the votes of the members of the Board 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.

(4) The Board may act notwithstanding one or more vacancies among its members.

Sch.

(5) Subject to the provisions of this Act, the Board shall regulate its procedure by rules or otherwise.

(6) The quorum for a meeting of the Board shall unless the Minister otherwise directs be 7.

7. (1) Where a member of the Board is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the Board.

(2) Where a member of the staff of the Board is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or
- (c) regarded pursuant to the said Part XIII, as having been elected to that Parliament,

he or she shall thereupon stand seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected (as the case may be), and ending when such person ceases to be a member of either such House or a representative in such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament shall, while he or she is so entitled or is such a representative, be disqualified for membership of the Board or for employment in any capacity by the Board.

(4) A period mentioned in *subparagraph (2)* shall not, for the purposes of any superannuation benefit, be reckoned as service with the Board.

8. (1) Where at a meeting of the Board any of the following matters arise, namely—

- (a) an arrangement to which the Board is a party or a proposed such arrangement, or
- (b) a contract or other agreement with the Board or a proposed such contract or other agreement,

then, any member of the Board present at the meeting who otherwise than in his or her capacity as such a member has an interest in the matter shall—

- (i) at the meeting disclose to the Board the fact of such interest and the nature thereof,
- (ii) neither influence nor seek to influence a decision to be made in relation to the matter,

- (iii) absent himself or herself from the meeting or that part of Sch. the meeting during which the matter is discussed,
- (iv) take no part in any deliberation of the Board relating to the matter, and
- (v) not vote on a decision relating to the matter.

(2) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

(3) Where at a meeting of the Board a question arises as to whether or not a course of conduct, if pursued by a member of the Board, would constitute a failure by him or her to comply with the requirements of *subparagraph (1)*, the question may be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(4) Where the Minister is satisfied that a member of the Board has contravened *subparagraph (1)*, the Minister may, if he or she thinks fit, remove that member from office and, in case a person is removed from office pursuant to this subparagraph, he or she shall thenceforth be disqualified for membership of the Board.

9. (1) Where a member of the staff of the Board has an interest, otherwise than in his or her capacity as such a member, in any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the Board is a party, that person shall—

- (a) disclose to the Board his or her interest and the nature thereof,
- (b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by the Board or members of the staff of the Board in relation thereto, and
- (c) neither influence nor seek to influence a decision to be made in the matter nor make any recommendation in relation to the contract, agreement or arrangement.

(2) *Subparagraph (1)* shall not apply to contracts or proposed contracts of employment of members of the staff of the Board with the Board.

(3) Where a person contravenes this paragraph the Board may make such alterations to the person's terms and conditions of employment as it considers appropriate or terminate the person's contract of employment.

10. (1) A person shall not disclose confidential information obtained by him or her while performing duties as a member or member of the staff of, or an adviser or consultant to, the Board unless he or she is duly authorised by the Board to do so.

(2) A person who contravenes *subparagraph (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

(3) In this section, "confidential information" includes—

[No. 22.] *Education (Welfare) Act, 2000.* [2000.]

Sch.

- (a) information that is expressed by the Board to be confidential either as regards particular information or as regards information of a particular class or description, and
- (b) proposals of a commercial nature or tenders submitted to the Board by contractors, consultants or any other person.

11. (1) The Board may establish committees to advise it in relation to the performance of any or all of its functions and may determine the terms of reference and regulate the procedure of any such committee.

(2) A committee established under this paragraph may include persons who are not members of the Board.

(3) A committee established under this paragraph shall, where the Chief Executive considers it appropriate, include the Chief Executive or such other person as may be nominated by the Chief Executive.

(4) A member of a committee established under this paragraph may be removed from office at any time by the Board.

(5) The Board may at any time dissolve a committee established under this paragraph.

(6) The Board may appoint a person to be chairperson of a committee established under this paragraph.

(7) There may be paid by the Board to members of a committee established under this paragraph such allowances for expenses (if any) incurred by them as the Board may, with the consent of the Minister and the Minister for Finance, determine.