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**AN BILLE OIDEACHAIS (LEASÚ) 2010
EDUCATION (AMENDMENT) BILL 2010**

*Mar a tionscnaíodh
As initiated*

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ACTS REFERRED TO

Education Act 1998	1998, No. 51
Education Acts 1878 to 2007	
Education for Persons with Special Educational Needs Act 2004	2004, No. 30
Health Act 2004	2004, No. 42
Teaching Council Act 2001	2001, No. 8
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AN BILLE OIDEACHAIS (LEASÚ) 2010
EDUCATION (AMENDMENT) BILL 2010

BILL

entitled

5 AN ACT TO EXTEND THE FUNCTIONS PERFORMED BY
VOCATIONAL EDUCATION COMMITTEES, AND FOR
THAT AND OTHER PURPOSES TO EXTEND THE
APPLICATION OF THE VOCATIONAL EDUCATION
10 ACTS 1930 TO 2006, TO AMEND, AND EXTEND THE
APPLICATION OF, THE EDUCATION ACT 1998, TO
AMEND THE TEACHING COUNCIL ACT 2001, AND TO
PROVIDE FOR OTHER RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

15 PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Education (Amendment)
Act 2010.

Short title,
collective citations,
construction and
commencement.

(2) The Vocational Education Acts 1930 to 2006, *sections 4* and
5(4) and this subsection may be cited together as the Vocational
20 Education Acts 1930 to 2010, and shall be construed together as
one Act.

(3) The Education Acts 1878 to 2007 and *sections 5* (other than
subsection (4)), *6, 7, 8, 9, 10* and *11* and this subsection may be cited
together as the Education Acts 1878 to 2010.

25 (4) The Education Acts 1878 to 2007 and *sections 5(1), (2), (3)*
and *(5)* and this subsection shall be construed together as one Act.

(5) The Teaching Council Acts 2001 and 2006 and *section 12* and
this subsection may be cited together as the Teaching Council Acts
2001 to 2010.

30 (6) 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.

Interpretation.

2.—In this Act—

“Act of 1998” means the Education Act 1998;

“joint patron” shall be construed in accordance with section 8(5) of the Act of 1998;

“Minister” means the Minister for Education and Skills; 5

“patron” shall be construed in accordance with section 8 of the Act of 1998;

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

Expenses.

3.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas. 10

PART 2

VOCATIONAL EDUCATION COMMITTEES AND PRIMARY SCHOOLS

Powers and duties of vocational education committees in relation to primary schools.

4.—(1) A vocational education committee may, with the consent of the Minister, do one or more than one of the following: 15

(a) establish and maintain a school to provide primary education;

(b) maintain a school to provide primary education;

(c) become patron or joint patron of a primary school which is a recognised school within the meaning of the Act of 1998. 20

(2) A vocational education committee shall, on the direction of the Minister, do one or more than one of the following:

(a) establish and maintain a school to provide primary education; 25

(b) maintain a school to provide primary education;

(c) become patron or joint patron of a primary school which is a recognised school within the meaning of the Act of 1998. 30

(3) Before giving consent for the purposes of *subsection (1)* or a direction under *subsection (2)*, the Minister shall be satisfied that the requirements in paragraphs (a) to (g) of section 10(2) (as amended by this Act) of the Act of 1998 have been or will be met in respect of the school or proposed school concerned. 35

Boards of management.

5.—(1) The Act of 1998, other than Part VIII, shall apply to a board of each of the following:

(a) a school established and maintained under *section 4*;

(b) a school maintained under *section 4*;

(c) a school of which a vocational education committee has become patron or joint patron under *section 4*.

5 (2) Notwithstanding section 14(2) of the Act of 1998, a board of a school referred to in subsection (1) shall be a body corporate with perpetual succession and power to sue and may be sued in its corporate name.

10 (3) (a) Notwithstanding section 18(1) of the Act of 1998, a board of a school referred to in subsection (1) shall keep all proper and usual accounts and records of all monies received by it and expenditure of such monies incurred by it and shall ensure that in each year all such accounts are properly audited or certified in accordance with best accounting practice.

15 (b) Accounts kept in pursuance of this subsection shall be made available by the board concerned for inspection by the Minister or parents of students in the school, or both, in so far as those accounts relate to monies provided in accordance with section 12 of the Act of 1998.

20 (4) A board of a school referred to in *subsection (1)* shall not be a sub-committee of a vocational education committee within the meaning of section 31 of the Vocational Education (Amendment) Act 2001.

(5) In this section “board” means a board of management established under section 14 of the Act of 1998.

25 **6.—Section 8 of the Act of 1998 is amended—**

Amendment of section 8 of Act of 1998.

(a) by substituting for subsection (2) the following:

30 “(2) In any case other than those provided for in subsections (1) and (4), the patron of a recognised school shall be the person who requested recognition of the school or a nominee of such person and, at the option of that person, his or her name or the name of such nominee shall be entered in the register.”,

and

(b) by substituting for subsection (4) the following:

35 “(4) In the case of a school—

(a) established and maintained under, or

(b) maintained under,

40 *section 4* of the *Education (Amendment) Act 2010* by a vocational education committee, or of which a vocational education committee has become patron or joint patron under that section, the vocational education committee concerned shall be the patron or joint patron, as the case may be, of the school for the purposes of this Act.”.

7.—Section 10 of the Act of 1998 is amended—

(a) in subsection (1), by substituting “or where the Minister has given a direction under *section 4(2)* of the *Education (Amendment) Act 2010*, he or she may from time to time designate” for “the Minister may from time to time designate”, and 5

(b) by substituting the following subsection for subsection (2):

“(2) The Minister may designate a school or a proposed school to be a school recognised for the purposes of this Act where he or she, on a request being made for that purpose by the patron or joint patrons of a school or a proposed school, or where he or she, having given a direction under *section 4(2)* of the *Education (Amendment) Act 2010*, is satisfied that— 10

(a) the number of students who are attending or are likely to attend the school is such or is likely to be such as to make the school viable, 15

(b) in the case of a proposed school, and having regard to the desirability of diversity in the classes of school operating in the area likely to be served by the school, the needs of students attending or likely to attend the school cannot reasonably be met by existing schools, 20

(c) the patron undertakes that the school shall provide the curriculum as determined in accordance with section 30, 25

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

(e) the school complies, or in the case of a proposed school shall comply, with health, safety and building standards as are determined by law and any further such standards as are determined from time to time by the Minister, 30

(f) the patron agrees that the school shall operate in accordance with such regulations as may be made by the Minister from time to time under section 33 and with this Act and with any other terms and conditions as may reasonably be attached to recognition by the Minister, and 40

(g) adequate resources are available and that the recognition of the school or proposed school represents an efficient and effective use of such resources.”.

8.—Section 29 of the Act of 1998 is amended in subsection (9) by substituting “In the case of a school (other than a school referred to in *section 4* of the *Education (Amendment) Act 2010*) which is established” for “In the case of a school which is established”. 45

PART 3

MISCELLANEOUS AMENDMENTS

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

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

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

10 and

(b) in the definition of “support services”—

(i) by deleting paragraph (f), and

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

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

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

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

25 12.—The Teaching Council Act 2001 is amended by substituting the following for section 30: Amendment of section 30 of Teaching Council Act 2001.

“Employment of person who is not a registered teacher. 30.—(1) A person who is employed as a teacher in a recognised school but—

(a) subject to subsection (2), is not a registered teacher, or

30 (b) is removed or suspended from the register under Part 5,

shall not be remunerated in respect of his or her employment out of monies provided by the Oireachtas.

35 (2) Notwithstanding subsection (1), the Minister, where he or she is satisfied that it is necessary to facilitate the urgent, temporary or occasional staffing needs of schools, may from time to time prescribe both—

40 (a) the circumstances in which a person who is employed in a teaching capacity in a recognised school, but is not a

registered teacher, may be remunerated in respect of his or her employment out of monies provided by the Oireachtas, and

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

(3) The Minister shall consider the following in satisfying himself or herself for the purposes of subsection (2): 10

- (a) the desirability of ensuring that, in so far as possible, persons employed as teachers in a recognised school are registered teachers; 15
- (b) the need to facilitate the urgent, temporary or occasional staffing needs of schools;
- (c) the desirability of minimising disruption to the education of students; and 20
- (d) the qualifications and, if any, the teaching experience of a person referred to in subsection (2).

(4) Without prejudice to the generality of subsection (2), regulations made under this section may provide for one or more than one of the following: 25

- (a) require that a person referred to in subsection (2) is employed in a teaching capacity in a position remunerated out of monies provided by the Oireachtas if, and only if, no registered teacher is available to take up the position in question; 30
- (b) limit the length of time for which such a person may be employed; 35
- (c) require a school to furnish evidence to the Minister that it has been unable to employ a registered teacher;
- (d) require the Minister's consent to the employment of such a person; 40
- (e) limit the subjects or purposes, or both, for which such a person may be employed; and
- (f) require certain minimum qualifications before such a person can be employed." 45



**AN BILLE OIDEACHAIS (LEASÚ) 2010
EDUCATION (AMENDMENT) BILL 2010**

EXPLANATORY MEMORANDUM

Purpose of Bill

This Bill provides for a legislative framework to facilitate the involvement of Vocational Education Committees (VECs) in the provision of primary education. These additional powers for VECs are proposed in the context of the development of a new additional model of patronage for schools at primary level. The Bill also provides for a number of other education-related matters: clarification on the delivery of speech therapy services to students; the abolition of the Educational Disadvantage Committee; and arrangements for the employment, in certain exceptional and limited circumstances, of persons who are not registered teachers under the Teaching Council Act 2001.

Provisions of Bill

**Part 1
Preliminary and General**

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

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

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

**Part 2
Vocational Education Committees and Primary Schools**

Section 4 provides for the involvement of a Vocational Education Committee (VEC) in the provision of primary education either on its own initiative or on the direction of the Minister. Subject to the consent of the Minister, a VEC may establish and maintain a school to provide primary education and may also become patron or joint patron of an existing school. In considering whether to grant consent in any of these circumstances, the Minister must be satisfied as to the provisions of section 10(2) of the Education Act 1998, as amended by section 7 of this Bill.

Section 5 provides for the governance of primary schools under VEC patronage in the same way as that which applies in the primary

sector generally. The board of management of a school established or maintained under this legislation will not be a sub-committee of a VEC in accordance with section 31 of the Vocational Education (Amendment) Act 2001. It will instead adhere to the procedures governing the appointment of boards of management in other recognised primary schools, pursuant to section 14(6) of the Education Act 1998. Subsection (3) provides for proper account keeping of a school established or maintained under this legislation, in accordance with the provisions of section 18 of the Education Act 1998.

Section 6 provides for the consequential amendment of section 8 of the Education Act 1998 (which deals with patrons) so as to extend its provisions to those schools which are established or maintained by VECs by virtue of section 4 of the Bill.

Section 7 amends section 10 of the Education Act 1998 consequent to the provisions of section 4 of the Bill to extend the application of the section to instances where the Minister has given a direction to a VEC. It also extends section 10(2) of the Education Act 1998 to include consideration of the availability of resources and the efficient and effective use of such resources in the issues to be taken into account by the Minister in deciding on a request for school recognition.

Section 8 provides for the amendment of section 29(9) of the Education Act 1998 to ensure that the appeal process for a school provided for under section 4 of the Bill will be managed in the manner which applies to recognised primary schools.

Part 3 **Miscellaneous Amendments**

Section 9 provides for two amendments to definitions contained in section 2(1) of the Education Act 1998. The definition of “educational disadvantage” is amended consequent upon the repeal of section 32 of the Education Act 1998 provided for in section 11 of the Bill. The definition of “support services” is amended in order to clarify the position in relation to delivery of speech therapy services and other health and personal services to students of school-going age.

Section 10 provides for a technical amendment of section 7 of the Education Act 1998 consequent to the amendment by section 9 of the Bill of the definition of “support services” in section 2 of the Education Act 1998.

Section 11 provides for the repeal of section 32 of the Education Act 1998 and will have the effect of abolishing the Educational Disadvantage Committee.

Section 12 provides for the amendment of section 30 of the Teaching Council Act 2001 to allow for the employment, in certain exceptional and limited circumstances, of persons who are not registered teachers under the Act.

*Department of Education and Skills,
Meán Fómhair, 2010.*