



Number 14 of 2012

EDUCATION (AMENDMENT) ACT 2012

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Number 14 of 2012

EDUCATION (AMENDMENT) ACT 2012

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

[23rd May, 2012]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Education (Amendment) Act 2012.

Short title,
commencement and
collective citations.

(2) 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 and different provisions.

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

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

2.—In this Act—

Interpretation.

“Act of 1998” means the Education Act 1998;

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

“Minister” means the Minister for Education and Skills.

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 Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

PART 2

AMENDMENT OF PROVISIONS OF EDUCATION ACT 1998

Amendment of section 2 of Act of 1998.

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

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

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

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

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

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

(i) by deleting paragraph (f), and

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

“(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;”.

Amendment of section 7 of Act of 1998.

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

(a) by substituting the following paragraph for paragraph (a) of subsection (4):

“(a) shall have regard to—

(i) the resources available,

(ii) the need to secure, as far as possible, that the education system provides—

(I) best practice in teaching methods,

(II) value for money, and

(III) quality outcomes for students,

by setting standards for those engaged in the provision of education, including the

determination both of procedures and such other matters as are provided for by this Act,

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

and”,

and

- (b) by repealing subsections (5) and (6) (inserted by section 40 of the Education for Persons with Special Educational Needs Act 2004).

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

Substitution of sections 23 and 24 of Act of 1998.

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

- (a) be responsible for the day-to-day management of the school, including guidance and direction of the teachers and other staff of the school, and be accountable to the board of the school for that management,
- (b) provide leadership to the teachers and other staff and the students of the school,
- (c) be responsible, together with the board, parents of students and the teachers, for the creation in the school of an environment which is supportive of learning among the students and which promotes the professional development of the teachers,
- (d) under the direction of the board, and in consultation with the teachers, the parents and, to the extent appropriate to their age and experience, the students, set objectives for the school and monitor the achievement of those objectives, and

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

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

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

- (b) regulations made under section 33.

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

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

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

Provisions relating to staff.

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

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

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

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

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

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

(5) (a) Notwithstanding subsections (3) and (11), a teacher or other member of staff of a recognised school who is, or who is to be, remunerated out of monies provided by the Oireachtas may be redeployed to another recognised school in accordance with redeployment procedures determined from time to time by the Minister with the concurrence of the Minister for Public Expenditure and Reform following consultation with bodies representative of patrons, recognised school management organisations and with recognised trade unions and staff associations representing teachers or other staff as appropriate.

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

(i) the board of, or

(ii) the vocational education committee which maintains,

the recognised school to which he or she is redeployed.

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

(7) For the purposes of section 30 of the Act of 2001—

(a) the Teaching Council shall provide the Minister and each vocational education committee with information which is held by it in respect of each person who is or was a registered teacher, and

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

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

- (i) who is or becomes registered under section 31 of the Act of 2001 or under regulations made pursuant to that section,
- (ii) whose conditional registration lapses in accordance with section 32 of the Act of 2001,
- (iii) who is removed from the register in accordance with section 34 or 35 of the Act of 2001, or
- (iv) whose registration is corrected in accordance with section 36 of the Act of 2001.

(8) Notwithstanding section 30 of the Act of 2001, the Minister, where he or she is satisfied that it is necessary to facilitate the urgent, temporary or occasional staffing needs of recognised schools, may from time to time prescribe both—

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

(9) Notwithstanding section 30 of the Act of 2001, the Minister shall consider the following in satisfying himself or herself for the purposes of subsection (8):

- (a) the desirability of ensuring that persons employed in teaching positions in a recognised school are registered teachers;
- (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
- (d) the qualifications and relevant experience of a person referred to in paragraphs (a) and (b) of subsection (8).

(10) Without prejudice to the generality of subsection (8), regulations made under that subsection may provide for one or more than one of the following:

- (a) a requirement that a person referred to in paragraphs (a) and (b) of subsection (8) be employed in the place of a registered teacher in a recognised school in a position remunerated, or to be remunerated, out of monies provided by the Oireachtas if, and only if, no registered teacher is available to take up the position in question;
- (b) a limit on the length for which such a person may be so employed in place of a registered teacher;
- (c) a requirement that such a person has certain minimum qualifications before he or she can be so employed;
- (d) a requirement that the Minister consent to the employment of such a person;
- (e) a limit on the subjects or purposes, or both, for which such a person may be so employed;
- (f) a requirement that a school retain and furnish to the Minister evidence that it has been unable to employ a registered teacher in the place of a registered teacher in a recognised school; and
- (g) a requirement that such a person is subject to An Garda Síochána vetting and clearance in accordance with standard practice for registered teachers.

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

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

(13) In applying subsection (11) to the Principal, a teacher or other member of staff of a recognised school which is established or maintained by a vocational education committee, the board of the recognised school concerned shall comply with the provisions of the Vocational Education Committee Acts 1930 to 2006 in relation to suspension and dismissal.

(14) In this section—

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

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

and

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

Repeal of section 32 of Act of 1998.

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

PART 3

AMENDMENT OF PROVISIONS OF TEACHING COUNCIL ACT 2001

Amendment of section 30 of Act of 2001.

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

Amendment of section 33 of Act of 2001.

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

“Renewal of Registration.

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

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

(a) the form and manner in which an application for renewal shall be made;

(b) the documentary and other evidence which shall accompany an application for renewal;

(c) the conditions for renewal of registration (including the issuing of notice of renewal of registration), which may include, but not necessarily be limited to, all or any of the following in relation to the applicant for renewal:

(i) satisfactory completion of programmes of continuing education and training accredited under section 39;

(ii) evidence of character including but not limited to declarations by the applicant and An Garda Síochána; and

(iii) teaching experience.

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

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

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

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

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

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

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

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

PART 4

REPEALS

Repeals.

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