



Number 25 of 2013

FURTHER EDUCATION AND TRAINING ACT 2013

REVISED

Updated to 18 July 2016

This Revised Act is an administrative consolidation of *Further Education and Training Act 2013*. It is prepared by the Law Reform Commission in accordance with its function under *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Electoral (Amendment) Act 2016 (5/2016)*, enacted 24 July 2016, and all statutory instruments up to and including *Industrial Training (Insurance Industry) Order 2016 (S.I. No. 382 of 2016)*, made 18 July 2016, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1999, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Workplace Relations Act 2015* (16/2015)
- *Protected Disclosures Act 2014* (14/2014)

All Acts up to and including *Electoral (Amendment) 2016* (5/2016), enacted 24 July 2016, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Industrial Training (Insurance Industry) Order 2016* (S.I. No. 382 of 2016)
- *Industrial Training (Heavy Goods Industry) Order 2016* (S.I. No. 381 of 2016)
- *Industrial Training (Financial Services Industry) Order 2016* (S.I. No. 380 of 2016)
- *Industrial Training (Culinary Industry) Order 2016* (S.I. No. 379 of 2016)
- *Industrial Training (Bakery Industry) Order 2016* (S.I. No. 378 of 2016)
- *Industrial Training (Accountancy Industry) Order 2016* (S.I. No. 377 of 2016)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 8) Order 2014* (S.I. No. 267 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 7) Order 2014* (S.I. No. 266 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 6) Order 2014* (S.I. No. 265 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No 5) Order 2014* (S.I. No. 264 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 4) Order 2014* (S.I. No. 263 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 3) Order 2014* (S.I. No. 262 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 2) Order 2014* (S.I. No. 261 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day Order 2014* (S.I. No. 260 of 2014)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 4) Order 2013* (S.I. No. 543 of 2013)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 3) Order 2013* (S.I. No. 542 of 2013)
- *Further Education and Training Act 2013 (Property Vesting Day) (No. 2) Order 2013* (S.I. No. 541 of 2013)
- *Further Education and Training Act 2013 (Property Vesting Day Order 2013* (S.I. No. 540 of 2013)
- *Further Education and Training Act 2013 (Establishment Day) Order 2013* (S.I. No. 406 of 2013)

All statutory instruments up to and including *Industrial Training (Insurance Industry) Order 2016* (S.I. No. 382 of 2016), made 18 July 2016, were considered in the preparation of this revision.



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Redundancy Payments Act 1967	1967, No. 21
Redundancy Payments Acts 1967 to 2007	
Safety, Health and Welfare at Work Act 2005	2005, No. 10
Social Welfare and Pensions Act 2010	2010, No. 37
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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS AN tSEIRBHÍS OIDEACHAIS LEANÚNAIGH AGUS SCILEANNA; TO PROVIDE FOR THE DISSOLUTION OF AN FORAS ÁISEANNA SAOTHAIR AND THE TRANSFER OF ITS FUNCTIONS TO THE SAID BODY; TO PROVIDE FOR THE CONFERRAL OF OTHER FUNCTIONS ON THE SAID BODY; TO REPEAL THE LABOUR SERVICES ACT 1987; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[10th July, 2013]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

- E1** Chief Executive officer of An tSeirbhís Oideachais Leanúnaigh agus Scileanna (Further Education and Training Authority) prescribed as the recipient of disclosures of relevant wrongdoings in relation to all matters relating to the regulation, registration, employment and education of apprentices as provided for in the Act (23.07.2014) by *Protected Disclosures Act 2014 (Section 7(2)) Order 2014* (SI. No. 339 of 2014), art. 2 and sch. ref. 2.

PART 1

PRELIMINARY AND GENERAL

Short title and commencement.

1.— (1) This Act may be cited as the Further Education and Training Act 2013.

(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 or different provisions.

Annotations**Editorial Notes:**

- E2** Power pursuant to section exercised (26.10.2013) by *Further Education and Training Act 2013 (Commencement) (No. 2) Order 2013* (S.I. No. 400 of 2013), art. 2.
2. The 26th day of October 2013 is appointed as the day upon which the Further Education and Training Act 2013 (No. 25 of 2013), in so far as it is not already in operation, shall come into operation.
- E3** Power pursuant to section exercised (9.10.2013) by *Further Education and Training Act 2013 (Commencement) Order 2013* (S.I. No. 394 of 2013), art. 2.
2. The 9th day of October 2013 is appointed as the day upon which subsection (4) of section 23 of the Further Education and Training Act 2013 (No. 25 of 2013) shall come into operation.

Interpretation. **2.—** In this Act—

“Act of 1995” means the Ethics in Public Office Act 1995;

“An tSeirbhís” has the meaning assigned to it by *section 6*;

“chief executive” has the meaning assigned to it by *section 23*;

“dissolved body” has the meaning assigned to it by *section 37*;

“education and training board” means an education and training board established by section 9 of the Education and Training Boards Act 2013;

“further education and training strategy” means a strategy approved by the Minister under *section 9*;

“material interest” shall be construed in accordance with section 2(3) of the Act of 1995;

“Minister” means the Minister for Education and Skills;

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death.

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 moneys provided by the Oireachtas.

Repeals. **4.—** The Labour Services Act 1987 is repealed.

PART 2**AN tSEIRBHÍS OIDEACHAIS LEANÚNAIGH AGUS SCILEANNA**

Establishment day. **5.—** The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Annotations**Editorial Notes:**

- E4** Power pursuant to section exercised (27.10.2013) by *Further Education and Training Act 2013 (Establishment Day) Order 2013* (S.I. No. 406 of 2013), art. 2.

2. The 27th day of October 2013 is appointed to be the establishment day for the purposes of the Further Education and Training Act 2013 (No. 25 of 2013).

Establishment of
An tSeirbhís
Oideachais
Leanúnaigh agus
Scileanna.

6.— (1) There shall stand established on the establishment day, a body which shall be known as An tSeirbhís Oideachais Leanúnaigh Agus Scileanna (in this Act referred to as “An tSeirbhís”), to perform the functions conferred on it by this Act.

(2) An tSeirbhís shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name, and shall, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and shall have power to acquire, hold and dispose of any other property.

(3) The seal of An tSeirbhís shall be authenticated by—

(a) the signatures of 2 members of An tSeirbhís, or

(b) the signatures of both a member and a member of the staff of An tSeirbhís,

authorised by An tSeirbhís to act in that behalf.

(4) Judicial notice shall be taken of the seal of An tSeirbhís and any document purporting to be an instrument made by, and to be sealed with the seal of, An tSeirbhís shall, unless the contrary is shown, be received in evidence and be deemed to be such instrument without further proof.

Functions of An
tSeirbhís.

7.— (1) The general functions of An tSeirbhís shall be to—

(a) prepare and submit to the Minister a strategy in respect of the provision of further education and training in accordance with *section 9*,

(b) promote an appreciation of the value of further education and training,

(c) consult with the Minister for Social Protection, the Minister for Jobs, Enterprise and Innovation and employers from time to time for the purpose of determining which, or which classes of, further education and training programmes should be the subject of advances by An tSeirbhís in accordance with *section 21*,

(d) advance moneys to education and training boards and other bodies engaged in the provision of further education and training programmes as determined in accordance with *paragraph (c)*,

(e) provide, or arrange for, the provision of training and retraining for employment and to assist in and coordinate the provision of such training by persons other than An tSeirbhís,

(f) assess whether or not education and training boards, and other bodies engaged in the provision of further education and training programmes, to whom moneys have been advanced under *section 21* perform their functions in an economic, efficient and effective manner,

- (g) promote, encourage and facilitate the placement of persons belonging to such class or classes of person as may be specified by the Minister for Social Protection after consultation with the Minister in further education and training programmes that are funded, in whole or in part, out of public moneys,
- (h) promote cooperation between education and training boards and other bodies involved in the provision of further education programmes,
- (i) promote equality of opportunity in relation to the provision of further education and training,
- (j) develop, and facilitate the development of, new and existing further education and training programmes including the establishment of systems designed to monitor the quality of the education and training concerned for the purpose of ensuring that those programmes serve their purpose,
- (k) provide or assist in the provision of training to persons charged with the delivery of further education and training programmes in respect of which moneys have been advanced by An tSeirbhís under *section 21*,
- (l) conduct, or arrange for the conduct of, research as respects any matters relating to the functions of An tSeirbhís, and
- (m) advise the Minister in relation to any matter connected with the functions of An tSeirbhís.

(2) An tSeirbhís shall, upon a request from the Minister, provide the Minister with information, in such form and manner as the Minister may specify, as respects persons placed in further education and training programmes to which *paragraph (g)* of *subsection (1)* applies.

(3) An tSeirbhís may, for the purpose of defraying any expense incurred by it in the provision of any service, charge a fee to the recipient of the service provided that any such fee shall not exceed the cost to An tSeirbhís of providing the service.

(4) An tSeirbhís may, for the purposes of any further education and training that it is, for the time being, providing in the State to persons who are ordinarily resident in the State provide, or arrange for the provision of, a service to those persons outside the State.

(5) An tSeirbhís shall have all such powers as are necessary or expedient for the performance of its functions.

Conferral of additional functions on An tSeirbhís.

8.— (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, confer on An tSeirbhís, by order, such additional functions connected with the functions for the time being of An tSeirbhís as he or she thinks fit, subject to such conditions (if any) as may be specified in the order.

(2) An order under this section may contain such incidental, supplemental and consequential provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

Further education and training strategy.

9.— (1) An tSeirbhís shall—

- (a) as soon as practicable after the commencement of this section,
- (b) not later than the expiration of such period as is specified in a direction under *subsection (2)*, and

(c) not later than 5 years after the most recent approval by the Minister of a strategy under this section,

prepare, and submit to the Minister, a strategy in relation to the provision in the State of further education and training in respect of the period of 5 years immediately following its approval by the Minister under this section.

(2) The Minister may give a direction in writing to An tSeirbhís requiring it to prepare, and submit to him or her—

(a) not later than the expiration of such period as is specified in the direction, and

(b) in respect of such period as is so specified,

a strategy under this section.

(3) An tSeirbhís shall, in the preparation of a strategy under this section have regard to—

(a) any policy directions given by the Minister under *section 19*, and

(b) the likely cost of implementing any such strategy if approved by the Minister under this section.

(4) An tSeirbhís shall, for the purpose of preparing a strategy under this section, consult with the Minister for Education and Skills, the Minister for Social Protection and the Minister for Jobs, Enterprise and Innovation.

(5) An tSeirbhís may, for the purpose of preparing a strategy under this section, consult with—

(a) An tÚdarás um Ard-Oideachas, Enterprise Ireland, Teagasc or Quality and Qualifications Ireland,

(b) such education and training boards as it considers appropriate, or

(c) such—

(i) other providers of further education and training programmes (including community education providers),

(ii) persons in receipt of further education and training,

(iii) employers, or

(iv) other persons,

as it considers appropriate.

(6) A strategy under this section shall include a strategy for the provision of further education and training programmes in the State aimed at promoting, developing and encouraging literacy and numeracy.

(7) The Minister shall, as soon as practicable after the submission to him or her of a strategy under this section—

(a) approve the strategy with or without modifications, or

(b) refuse to approve the strategy and give a direction to An tSeirbhís under *subsection (2)*.

(8) An tSeirbhís shall, as soon as practicable after the approval by the Minister of a strategy prepared and submitted under this section, cause the strategy to be published in such manner as An tSeirbhís considers appropriate.

Membership of
An tSeirbhís.

10.— (1) An tSeirbhís shall consist of the following members that is to say—

(a) a chairperson, and

(b) 12 ordinary members (including the person to whom *subsection (8) of section 23* applies).

(2) The chairperson of An tSeirbhís shall be appointed by the Minister from among persons who in the Minister's opinion have experience of, and expertise in relation to—

(a) matters connected with the functions of An tSeirbhís, or

(b) matters connected with finance, trade, commerce, corporate governance or public administration.

(3) Of the ordinary members of An tSeirbhís (other than the person to whom *subsection (8) of section 23* applies)—

(a) 8 shall be appointed by the Minister, following consultation by him or her with the Minister for Jobs, Enterprise and Innovation and the Minister for Social Protection, from among persons who in the opinion of the Minister have experience of, and expertise in relation to—

(i) matters connected with the functions of An tSeirbhís, or

(ii) matters connected with finance, trade, commerce, corporate governance or public administration,

(b) 2 shall be appointed by the Minister, following their nomination by the Minister for Social Protection from among persons who in the opinion of the Minister have experience of, and expertise in relation to, the matters referred to in *subparagraph (i) or (ii) of paragraph (a)*,

(c) one shall be appointed by the Minister from among persons who in his or her opinion are representative of the interests of persons who are, for the time being, in receipt of further education and training.

(4) The chairperson of An tSeirbhís shall hold office for such period not exceeding 5 years from the date of his or her appointment, as the Minister shall determine.

(5) Subject to *subsection (6)*, each ordinary member of An tSeirbhís (other than the person to whom *subsection (8) of section 23* applies) shall hold office for such period not exceeding 5 years from the date of his or her appointment, as the Minister shall determine.

(6) Of the ordinary members of An tSeirbhís (other than the person to whom *subsection (8) of section 23* applies) first appointed after the commencement of this section—

(a) such 3 members as the Minister shall determine shall hold office for the period of 3 years from the date of their appointment,

(b) such 4 members as the Minister shall determine shall hold office for the period of 4 years from the date of their appointment, and

(c) such 4 members as the Minister shall determine shall hold office for the period of 5 years from the date of their appointment.

(7) Subject to *subsection (8)*, a member of An tSeirbhís whose term of office expires by the effluxion of time shall be eligible for reappointment to An tSeirbhís.

(8) A member of An tSeirbhís who has served 2 terms of office shall not be eligible for reappointment to An tSeirbhís, and any period during which a person serves as a

member of An tSeirbhís pursuant to an appointment under *section 12* shall be deemed for the purposes of this subsection to be a term of office.

Conditions of office of members of An tSeirbhís.

11.— (1) The Minister may at any time remove from office a member of An tSeirbhís if—

- (a) in the opinion of the Minister, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour,
- (b) the member's removal appears to the Minister to be necessary in order to ensure the effective performance by An tSeirbhís of its functions, or
- (c) the Minister is satisfied that the member has contravened the Act of 1995.

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

(3) A member of An tSeirbhís shall cease to be qualified for office and shall cease to hold office if he or she—

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

(4) A member of An tSeirbhís 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 Public Expenditure and Reform.

Casual vacancies among members of An tSeirbhís.

12.— (1) If a member of An tSeirbhís 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 An tSeirbhís to fill the casual vacancy so occasioned in the same manner as the member of An tSeirbhís who occasioned the casual vacancy was appointed.

(2) A person appointed to be a member of An tSeirbhís pursuant to this section 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, subject to *subsection (5) of section 10*, be eligible for reappointment as a member of An tSeirbhís on the expiry of the said period.

Remuneration of members of An tSeirbhís.

13.— The chairperson and ordinary members of An tSeirbhís shall be paid by An tSeirbhís such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Public Expenditure and Reform, may determine.

Meetings and
procedure.

14.— (1) An tSeirbhís shall hold such and so many meetings as may be necessary for the due fulfilment of its functions but in each year shall hold not less than one meeting in each period of 3 months.

(2) At a meeting of An tSeirbhís—

(a) the chairperson of An tSeirbhís shall, if present, be the chairperson of the meeting, or

(b) if and so long as the chairperson of An tSeirbhís is not present, or if that office is vacant, the members of An tSeirbhís 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 An tSeirbhís 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) Subject to *subsection (6)*, An tSeirbhís may act notwithstanding one or more vacancies among its members.

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

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

(7) The Minister shall fix the date of the first meeting of An tSeirbhís first constituted pursuant to *section 10*, and shall specify the time and place at which it shall take place.

Membership of
either House of
Oireachtas or
European Parlia-
ment.

15.— (1) Where a member of An tSeirbhís is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or

(c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of An tSeirbhís.

(2) Where a member of the staff of An tSeirbhís is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or

(c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon stand seconded from employment by An tSeirbhís and shall not be paid by, or be entitled to receive from, An tSeirbhís 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 member of 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 member of the European Parliament

shall, while he or she is so entitled or is such a member, be disqualified for membership of An tSeirbhís or for employment in any capacity by An tSeirbhís.

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

(5) In this section “Act of 1997” means the European Parliament Elections Act 1997.

Disclosure by members of An tSeirbhís of certain interests.

16.— (1) Where at a meeting of An tSeirbhís any of the following matters arises, namely—

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

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

- (i) at the meeting, disclose to An tSeirbhís the fact of such interest and the nature thereof,
- (ii) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
- (iii) take no part in any deliberation of An tSeirbhís relating to the matter, and
- (iv) not vote on a decision relating to the matter.

(2) A member of An tSeirbhís who, otherwise than in his or her capacity as such a member has a material interest in—

- (a) an arrangement or proposed arrangement to which *paragraph (a)* of *subsection (1)* applies, or
- (b) a contract or other agreement or a proposed contract or other agreement to which *paragraph (b)* of that subsection applies,

shall neither influence nor seek to influence any decision to be made by An tSeirbhís in relation thereto.

(3) Where a material 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.

(4) Where at a meeting of An tSeirbhís a question arises as to whether or not a course of conduct, if pursued by a member of An tSeirbhís, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may, subject to *subsection (5)*, 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.

(5) Where at a meeting of An tSeirbhís, the chairperson of the meeting is the member in respect of which a question to which *subsection (4)* applies falls to be determined, then the other members of An tSeirbhís attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

(6) Where the Minister is satisfied that a member of An tSeirbhís has contravened *subsection (1)* or *(2)*, the Minister may, if he or she thinks fit, remove that member

from office and, where a person is removed from office pursuant to this subsection, he or she shall thenceforth be disqualified for membership of An tSeirbhís.

Disclosure by members of staff of An tSeirbhís of certain interests.

17.— (1) Where a member of the staff of An tSeirbhís has a material 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 An tSeirbhís is a party, that person shall—

- (a) disclose to An tSeirbhís 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 An tSeirbhís or members of the staff of An tSeirbhís 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) *Subsection (1)* shall not apply to contracts or proposed contracts of employment of members of the staff of An tSeirbhís with An tSeirbhís.

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

Prohibition on unauthorised disclosure of confidential information.

18.— (1) Subject to *sections 34* and *35*, a person shall not disclose confidential information obtained by him or her while performing functions as a member or member of the staff of, or an adviser or consultant to, An tSeirbhís, or a member of the staff of such adviser or consultant, unless he or she is duly authorised by An tSeirbhís to do so.

(2) In this section "confidential information" includes—

- (a) information that is expressed by An tSeirbhís 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 An tSeirbhís by contractors, consultants or any other person.

Directions of Minister.

19.— (1) The Minister may, in relation to the performance by An tSeirbhís of its functions, give a direction in writing to An tSeirbhís requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, in relation to the performance by An tSeirbhís of its functions, give a direction in writing to An tSeirbhís requiring it to comply with such matters specified in the direction relating to—

- (a) the provision of services or the carrying on of activities specified in the direction, or
- (b) expenditure by An tSeirbhís.

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

(4) An tSeirbhís shall comply with a direction under this section.

Grants to An
tSeirbhís.

20.— (1) In each financial year, the Minister may, after consultation with An tSeirbhís, advance to An tSeirbhís out of moneys provided by the Oireachtas such sums as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.

(2) Section 7 of the National Training Fund Act 2000 is amended by the insertion of the following subsection:

“(2A) The Minister may, for any purpose specified in subsection (1) and with the consent of the Minister for Public Expenditure and Reform, make payments to An tSeirbhís, and any payments so made shall be expended by An tSeirbhís for that purpose only.”.

Grants by An
tSeirbhís.

21.— (1) An tSeirbhís may, for the purposes of any further education or training programme, advance such sum or sums as it considers appropriate to an education and training board that provides that programme.

(2) An tSeirbhís may, for the purposes of any further education or training programme, advance such sum or sums as it considers appropriate to a body (other than an education and training board) that provides that programme.

(3) An tSeirbhís may—

(a) for the purposes of ensuring the implementation of the further education and training strategy attach such conditions as it considers appropriate to any advance made in accordance with this section, and

(b) attach such other conditions (if any) as it considers appropriate to any such advance.

(4) A body to whom moneys are advanced under this section shall provide such information to An tSeirbhís in relation to the performance of its functions or the expenditure of those moneys as An tSeirbhís may reasonably require.

(5) If an education and training board contravenes a condition attaching to an advance under this section or fails to comply with a requirement under *subsection (4)*, An tSeirbhís shall so inform the Minister.

Borrowings by An
tSeirbhís.

22.— (1) An tSeirbhís may, with the consent of the Minister and the Minister for Public Expenditure and Reform and subject to such conditions (if any) as they may specify, from time to time, borrow money (whether on the security of the assets of An tSeirbhís or not).

(2) The aggregate standing borrowed under this section at any one time shall not exceed such amount as the Minister may, with the consent of the Minister for Public Expenditure and Reform determine.

Chief executive.

23.— (1) There shall be a chief executive officer of An tSeirbhís (in this Act referred to as the “chief executive”).

(2) Subject to *subsections (4) and (5)*, the chief executive shall be appointed by An tSeirbhís with the consent of the Minister.

(3) The chief executive may be removed from office by An tSeirbhís for stated reasons.

(4) The Minister may, before the establishment day, designate a person to be appointed to be the first chief executive of An tSeirbhís.

(5) If, immediately before the establishment day, a person stands designated by the Minister under *subsection (4)*, An tSeirbhís shall appoint that person to be the first chief executive.

(6) The chief executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by An tSeirbhís with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(7) The chief executive shall not hold any other office or employment or carry on any business without the consent of An tSeirbhís.

(8) The chief executive shall, *ex officio*, be an ordinary member of An tSeirbhís.

Functions of chief executive.

24.— (1) The chief executive shall carry on and manage, and control generally, the administration of An tSeirbhís and perform such other functions (if any) as may be determined by An tSeirbhís.

(2) The chief executive shall perform his or her functions subject to such policies as may be determined from time to time by An tSeirbhís, and shall be accountable to An tSeirbhís for the efficient and effective management of An tSeirbhís and for the due performance of his or her functions.

(3) The chief executive may make proposals to An tSeirbhís on any matter relating to its functions.

(4) An tSeirbhís may designate a member of the staff of An tSeirbhís to perform the functions of chief executive in the absence of the chief executive or where the position of chief executive is vacant, and a member so designated shall in such absence or upon such position being vacant perform those functions.

Accountability of chief executive to Public Accounts Committee.

25.— (1) The chief executive shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to that Committee in relation to—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that An tSeirbhís is required by this Act to prepare,
- (b) the economy and efficiency of An tSeirbhís in the use of its resources,
- (c) the systems, procedures and practices employed by An tSeirbhís for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting An tSeirbhís referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

Accountability of
chief executive to
other Oireachtas
Committees.

26.— (1) In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 25* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.

(2) Subject to *subsection (3)*, the chief executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of An tSeirbhís.

(3) The chief executive shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.

(4) Where the chief executive is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive is before it, the information shall be so conveyed in writing.

(5) Where the chief executive has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—

(a) the chief executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or

(b) the Chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court shall determine the matter.

(6) Pending the determination of an application under *subsection (5)*, the chief executive shall not attend before the Committee to give account for the matter the subject of the application.

(7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the chief executive shall attend before the Committee to give account for the matter.

(8) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

Staff.

27.— (1) An tSeirbhís shall, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, appoint such and so many persons to be members of the staff of An tSeirbhís as it may from time to time determine.

(2) The terms and conditions of service of a member of the staff of An tSeirbhís shall, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, be such as may be determined from time to time by An tSeirbhís.

(3) There shall be paid by An tSeirbhís to the members of its staff such remuneration and allowances as, from time to time, An tSeirbhís, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, determines.

Transfer of staff
to An tSeirbhís.

28.— (1) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association, An tSeirbhís shall accept into its employment on the establishment day each person who immediately before that day was a member of the staff of the dissolved body on such terms and conditions of service relating to remuneration as are not less favourable than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.

(2) The terms and conditions to which a person is subject upon his or her becoming a member of the staff of An tSeirbhís in accordance with *subsection (1)* shall be deemed to have been determined by An tSeirbhís in accordance with *subsection (2) of section 27*.

(3) In relation to persons transferred to the staff of An tSeirbhís under *subsection (1)*, previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967 to 2007, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007.

Superannuation.

29.— (1) As soon as may be after the establishment day, An tSeirbhís shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of—

- (a) persons who were accepted into its employment in accordance with *section 28*,
- (b) such other members of its staff (including the chief executive but not including persons to whom the Single Public Service Pension Scheme applies by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012) as it considers appropriate, and
- (c) former members of the staff (other than those who were accepted into the employment of An tSeirbhís in accordance with *section 28*) of the dissolved body, including those who are deceased.

(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) An tSeirbhís may at any time prepare and submit to the Minister a scheme amending or revoking 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 Public Expenditure and Reform, be carried out by An tSeirbhís in accordance with its terms.

(5) (a) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit pursuant to a scheme under this section, such dispute shall be submitted to such person and determined in such manner as may be specified in the scheme.

(b) A scheme under this section shall make provision for an appeal from a determination of a person referred to in *paragraph (a)* to such other person as may be specified in the scheme.

(6) A superannuation benefit shall not be granted by An tSeirbhís to or in respect of any of its staff (including the chief executive) who are members of a scheme under this section and no other arrangement shall 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 or an arrangement approved by the Minister and the Minister for Public Expenditure and Reform.

(7) (a) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a scheme under *subsection (1)* shall, as respects—

(i) a person accepted into the employment of An tSeirbhís in accordance with *section 28*, or

(ii) a former member of the staff of the dissolved body referred to in *paragraph (c)* of *subsection (1)*,

provide for the granting to or in respect of him or her of superannuation benefits upon and subject to such terms and conditions as are not less favourable to him or her than the terms and conditions in relation to the grant of such benefits that applied to him or her immediately before the establishment day.

(b) Any period of service by a person as a member of the staff of the dissolved body which was a period of reckonable service for the purposes of a scheme for the granting of superannuation benefits to or in respect of members of the staff of the dissolved body shall be regarded as a period of reckonable service for the purposes of any scheme under *subsection (1)*.

(8) (a) Where, in the period beginning on the establishment day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who was accepted into the employment of An tSeirbhís in accordance with *section 28*, the benefit shall be calculated and paid by An tSeirbhís in accordance with such scheme, arrangements or enactments in relation to superannuation, as applied to the person immediately before the establishment day and, for that purpose, his or her pensionable service with An tSeirbhís shall be aggregated with his or her previous pensionable service.

(b) Where, in the period beginning on the establishment day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person (including a person who is deceased) who was a member of the staff of the dissolved body but was not accepted into the employment of An tSeirbhís in accordance with *section 28*, the benefit shall be calculated and paid by An tSeirbhís in accordance with such scheme, arrangements or enactments in relation to superannuation, as applied to the person immediately before the establishment day.

(9) 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 such House within the next 21 days on which that House sits after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Strategy statement.

30.— (1) An tSeirbhís shall—

(a) not later than 6 months after the commencement of this section, prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted, and

(b) not later than 3 months before each third anniversary of the submission to the Minister in accordance with this subsection of the strategy statement for the time being in effect, prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted.

(2) The Minister shall, as soon as practicable after a strategy statement has been submitted to him or her under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.

(3) An tSeirbhís shall ensure that, as soon as practicable after copies of a strategy statement are laid before both Houses of the Oireachtas in accordance with *subsection (2)*, the strategy statement is published on the internet.

(4) In this section “strategy statement” means a statement that—

(a) specifies the key objectives, outputs and related strategies, including use of resources, of An tSeirbhís, and

(b) is prepared in a form and manner that is in accordance with any directions issued from time to time by the Minister.

Accounts of An tSeirbhís.

31.— (1) An tSeirbhís shall keep in such form as may be approved by the Minister with the consent of the Minister for Public Expenditure and Reform all proper and usual accounts of all money received or expended by it and, in particular, shall keep in such form as aforesaid all such special accounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, from time to time direct.

(2) Accounts kept in accordance with this section shall be submitted, not later than 1 March in the year immediately following the financial year to which they relate or on such earlier date as the Minister may, from time to time, specify, 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 as the Minister, after consultation with the Minister for Public Expenditure and Reform, may direct and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall, as soon as may be after they are so presented, cause copies thereof to be laid before each House of the Oireachtas.

Annual report.

32.— (1) An tSeirbhís shall not later than 31 May, or such other date as the Minister may specify in writing, 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 after receiving the report, cause copies of the report to be laid before each House of the Oireachtas.

(2) An tSeirbhís shall arrange for a report laid before both Houses of the Oireachtas in accordance with *subsection (1)* to be published on the internet as soon as practicable after copies of the report are so laid.

Gifts.

33.— (1) An tSeirbhís may, with the consent of the Minister and the Minister for Public Expenditure and Reform, accept gifts of money, land or other property upon such trusts or conditions (if any) as may be specified by the donor.

(2) An tSeirbhís shall not accept a gift if the trusts or conditions attaching to it would be inconsistent with its functions.

Protection of persons who report certain matters.

34.— (1) Where a person communicates his opinion, whether in writing or otherwise, to a member of the Garda Síochána, the Minister or a member of An tSeirbhís that—

- (a) an offence under this Act has been or is being committed or any provision of this Act has been or is being contravened,
- (b) an offence under any other enactment has been or is being committed, or any other enactment or rule of law has been or is being contravened, in relation to An tSeirbhís,
- (c) there has been other serious wrongdoing in relation to An tSeirbhís,

then, unless the person acts in bad faith, he or she shall not be regarded as having committed any breach of duty towards any other person, and no person shall have a cause of action against the first-mentioned person in respect of that communication.

(2) Where a person communicates his opinion, whether in writing or otherwise, to the Minister that a direction given by the Minister under this Act has been or is being contravened then, unless the person acts in bad faith, he or she shall not be regarded as having committed any breach of duty towards any other person, and no person shall have a cause of action against the first-mentioned person in respect of that communication.

(3) This section applies to a communication—

- (a) that would, but for this section, constitute a breach of duty by the person who made it, or
- (b) in respect of which, another person would, but for this section, have a cause of action against the person who made it.

F1[(4) This section does not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

Annotations

Amendments:

- F1** Inserted (15.07.2014) by *Protected Disclosures Act 2014* (14/2014), s. 24(1) and sch. 3 part 1 item 16, S.I. No. 327 of 2014.

Prohibition on penalisation.

35.— (1) An employer shall not penalise or threaten penalisation against an employee for—

- (a) making a complaint to a member of the Garda Síochána or a member of An tSeirbhís that a provision of this Act, or any enactment or other rule of law, has been or is being contravened,
- (b) making a complaint to the Minister that a direction given by him under this Act has been or is being contravened,
- (c) making a complaint to a member of An tSeirbhís that there has been serious wrongdoing in relation to An tSeirbhís,
- (d) giving evidence in any proceedings under this Act or any other enactment, or
- (e) giving notice of his intention to do any of the things referred to in the preceding paragraphs.

(2) The *Schedule* shall have effect for the purposes of *subsection (1)*.

(3) If the penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2007, relief may not be granted to the employee in respect of that penalisation both under the *Schedule* and under those Acts.

(4) In this section—

“employee” means, in relation to An tSeirbhís, a member of the staff of An tSeirbhís;

“employer” means An tSeirbhís;

“penalisation” means any act or omission by an employer or a person acting on behalf of an employer that affects an employee to his detriment with respect to any term or condition of his employment, and, without prejudice to the generality of the foregoing, includes—

(a) suspension, lay-off or dismissal including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2007, or the threat of suspension, lay-off or dismissal,

(b) demotion or loss of opportunity for promotion,

(c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,

(d) imposition or administration of any discipline, reprimand or other penalty (including a financial penalty), and

(e) coercion or intimidation.

Annotations

Editorial Notes:

- E5** Redress and appeal procedures for purposes of section provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 26, sch. 6 part 1 item 32, sch. 6 part 2 item 32, S.I. No. 410 of 2015.
- E6** Section included in definitions of “employment enactment” and “relevant enactment” (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 2 item 16, S.I. No. 338 of 2015, with the following effects:
- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
 - Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
 - Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer’s registered number or employee’s PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
 - Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
 - Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
 - Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
 - Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2), not commenced as of date of revision.

False statements. **36.**— (1) A person who states to a member of the Garda Síochána or a member of An tSeirbhís that—

- (a) an offence under this Act or any other enactment has been or is being committed,
- (b) a provision of this Act, a provision of any other enactment or any rule of law has been or is being contravened, or
- (c) there has been serious wrongdoing by any person in relation to An tSeirbhís,

knowing the statement to be false shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 3 years or both.

PART 3

DISSOLUTION OF AN FORAS ÁISEANNA SAOTHAIR

Dissolution of An Foras Áiseanna Saothair. **37.**— (1) An Foras Áiseanna Saothair (in this Act referred to as the “dissolved body”) is dissolved.

(2) *Section 25* shall apply to the person who immediately before the establishment day performed the functions of accounting officer of the dissolved body subject to the modifications that—

- (a) references in that section to the chief executive shall be construed as references to that person, and
- (b) references to An tSeirbhís shall be construed as references to the dissolved body.

(3) This section shall come into operation on the establishment day.

Transfer of functions to An tSeirbhís. **38.**— (1) (a) All functions (other than functions under the Act of 1987) that, immediately before the establishment day, were vested in the dissolved body are transferred to An tSeirbhís.

- (b) The functions conferred on the dissolved body by virtue of subsection (2) of section 4 of the Act of 1987 are transferred to An tSeirbhís.
- (c) References in any enactment or instrument under an enactment to An Foras Áiseanna Saothair (howsoever described) shall be construed as references to An tSeirbhís save where other provision is made as respects the construction of the first-mentioned references by any enactment passed before the passing of this Act.

(2) This section shall come into operation on the establishment day.

Annotations**Editorial Notes:**

- E7** Power pursuant to section exercised (18.07.2016) *Industrial Training (Insurance Industry) Order 2016* (S.I. No. 382 of 2016).
- E8** Power pursuant to section exercised (18.07.2016) *Industrial Training (Heavy Goods Industry) Order 2016* (S.I. No. 381 of 2016).
- E9** Power pursuant to section exercised (18.07.2016) *Industrial Training (Financial Services Industry) Order 2016* (S.I. No. 380 of 2016).
- E10** Power pursuant to section exercised (18.07.2016) *Industrial Training (Culinary Industry) Order 2016* (S.I. No. 379 of 2016).
- E11** Power pursuant to section exercised (18.07.2016) *Industrial Training (Bakery Industry) Order 2016* (S.I. No. 378 of 2016).
- E12** Power pursuant to section exercised (18.07.2016) *Industrial Training (Accountancy Industry) Order 2016* (S.I. No. 377 of 2016).

Transfer of land
and other property.

39.— (1) On the establishment day, all lands that, immediately before that day, were vested in the dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in An tSeirbhís for all the estate or interest therein that, immediately before the establishment day, was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.

(2) On the establishment day all property (other than land), including choses-in-action, that immediately before that day, was vested in the dissolved body shall stand vested in An tSeirbhís without any assignment.

(3) Every chose-in-action vested in An tSeirbhís by virtue of *subsection (2)* may, on and from the establishment day, be sued on, recovered or enforced by An tSeirbhís in its own name, and it shall not be necessary for An tSeirbhís, or the dissolved body, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Transfer of rights
and liabilities,
and continuation
of leases, licences
and permissions
granted by
dissolved body.

40.— (1) All rights and liabilities of the dissolved body subsisting immediately before the establishment day and arising by virtue of any contract or commitment (expressed or implied) shall on that day stand transferred to An tSeirbhís.

(2) Every right and liability transferred by *subsection (1)* to An tSeirbhís may, on and after the establishment day, be sued on, recovered or enforced by or against An tSeirbhís in its own name, and it shall not be necessary for An tSeirbhís, or the dissolved body, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

(3) Every lease, licence, wayleave or permission granted by the dissolved body in relation to land or other property vested in An tSeirbhís by or under this Act, and in force immediately before the establishment day, shall continue in force as if granted by An tSeirbhís.

Liability for loss
occurring before
establishment
day.

41.— (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day of any of the functions of the dissolved body shall on and after that day, lie against An tSeirbhís and not against the dissolved body.

(2) Any legal proceedings pending immediately before the establishment day to which the dissolved body is a party, shall be continued, with the substitution in the proceedings of An tSeirbhís, in so far as they so relate, for the dissolved body.

(3) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the dissolved body, be enforceable against An tSeirbhís and not the dissolved body.

(4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the establishment day shall be regarded as having been made by or proper to be made by An tSeirbhís and may be pursued and sued for by An tSeirbhís as if the loss or injury had been suffered by An tSeirbhís.

Provisions consequent upon transfer of functions, assets and liabilities to An tSeirbhís.

42.— (1) Anything commenced and not completed before the establishment day by or under the authority of the dissolved body may, in so far as it relates to a function transferred to An tSeirbhís under *section 38*, be carried on or completed on or after the establishment day by An tSeirbhís.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 38*, shall, if and in so far as it was operative immediately before the establishment day, have effect on and after that day as if it had been granted or made by An tSeirbhís.

(3) References to An Foras Áiseanna Saothair in the memorandum or articles of association of any company (except where they relate to a function transferred to the Minister for Social Protection under the Social Welfare and Pensions Act 2010) shall, on and after the establishment day, be construed as references to An tSeirbhís.

(4) Any money, stocks, shares or securities transferred by *section 39* that immediately before the establishment day were standing in the name of the dissolved body shall, on the request of An tSeirbhís be transferred into its name.

(5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in An tSeirbhís under *section 39* or *40* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Final accounts and final annual report of dissolved body.

43.— (1) An tSeirbhís shall, in respect of the period specified under *subsection (3)*, prepare final accounts of the dissolved body.

(2) An tSeirbhís shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the establishment day.

(3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the dissolved body.

(4) An tSeirbhís shall prepare the final annual report for the dissolved body and submit the report to the Minister not later than 5 months after the establishment day.

(5) *Section 32* shall apply with the necessary modifications in relation to an annual report prepared under this section.

Saver in respect of certain schemes. **44.—** (1) A scheme prepared under any enactment by the dissolved body that was in force immediately before the establishment day shall continue in force on and after that day.

(2) A scheme under any enactment that was altered by the dissolved body and that was in force immediately before the establishment day, shall continue in force on and after that day as so altered.

(3) For the avoidance of doubt, An tSeirbhís may amend or revoke a scheme to which this section applies under and in accordance with the enactment under which the scheme was prepared.

PART 4

MISCELLANEOUS

Definition. **45.—** In this Part “property vesting day” has the meaning assigned to it by *section 47*.

Transfer of staff from An tSeirbhís to training body. **46.—** (1) The Minister may designate for employment by an education and training board specified by him or her a person who is a member of the staff of An tSeirbhís.

(2) The Minister may designate for employment by an education and training board specified by him or her a person who is a fixed-term employee (within the meaning of the Protection of Employees (Fixed-Term Work) Act 2003) of An tSeirbhís.

(3) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, an education and training board shall accept into its employment on the employment transfer day in accordance with this section any person who immediately before that day is a member of the staff of An tSeirbhís and is designated by the Minister for employment by that education and training board, on such terms and conditions of service relating to remuneration as are not less favourable than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.

(4) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, the entitlement to any superannuation benefit of a person who was—

(a) accepted into the employment of An tSeirbhís in accordance with *section 28*, and

(b) subsequently designated under this section and accepted into the employment of an education and training board,

shall be determined, and the benefit shall be calculated and paid, by the education and training board in accordance with such scheme, arrangements or enactments in relation to superannuation, as applied to the person immediately before the employment transfer day and, for that purpose, his or her pensionable service with the education and training board shall be aggregated with his or her previous pensionable service (including his or her pensionable service with An tSeirbhís).

(5) In relation to persons who were accepted into the employment of an education and training board in accordance with this section, previous service with the dissolved body and previous service with An tSeirbhís shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967

to 2007, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007.

(6) In this section “employment transfer day” means, in relation to—

- (a) an education and training board specified by the Minister, and
- (b) a member of the staff of An tSeirbhís to whom a designation under this section applies as respects that education and training board,

such date as may be specified in writing by the Minister.

Transfer of land and other property to education and training boards.

47.— (1) The Minister may, from time to time, by order, appoint a day (in this section referred to as a “property vesting day”) for the purposes of this section and different property vesting days may be so appointed in relation to different education and training boards.

(2) An order under this section shall designate such land or other property of An tSeirbhís and such education and training board as the Minister may determine for the purposes of this section.

(3) On a property vesting day any land designated by the order and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, stand vested in the education and training board designated by the order for all the estate or interest therein that, immediately before that day, was vested in An tSeirbhís, but subject to all trusts and equities affecting the land continuing to subsist and being capable of being performed.

(4) On a property vesting day all property (other than land), including choses-in-action, designated by the order that immediately before that day, was vested in An tSeirbhís shall, without any assignment, stand vested in the education and training board designated by the order.

(5) Every chose-in-action vested in an education and training board by virtue of *subsection (4)* may, on and after the property vesting day concerned, be sued on, recovered or enforced by the education and training board in its own name, and it shall not be necessary for the education and training board or An tSeirbhís to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

(6) All functions of An tSeirbhís connected with any land or other property standing vested in an education and training board by virtue of this section shall, from the property vesting day concerned, be performable by that education and training board in relation to such land or property.

Annotations

Editorial Notes:

- E13** Property vesting day appointed (1.07.2014) and Galway and Roscommon Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 8) Order 2014* (S.I. No. 267 of 2014), arts. 2 and 3.
- E14** Property vesting day appointed (1.07.2014) and Limerick and Clare Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 7) Order 2014* (S.I. No. 266 of 2014), arts. 2 and 3.
- E15** Property vesting day appointed (1.07.2014) and Waterford and Wexford Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 6) Order 2014* (S.I. No. 265 of 2014), arts. 2 and 3.

- E16** Property vesting day appointed (1.07.2014) and Longford and Westmeath Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 5) Order 2014* (S.I. No. 264 of 2014), arts. 2 and 3.
- E17** Property vesting day appointed (1.07.2014) and Laois and Offaly Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 4) Order 2014* (S.I. No. 263 of 2014), arts. 2 and 3.
- E18** Property vesting day appointed (1.07.2014) and Mayo, Sligo and Leitrim Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 3) Order 2014* (S.I. No. 262 of 2014), arts. 2 and 3.
- E19** Property vesting day appointed (1.07.2014) and Donegal Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) (No 2) Order 2014* (S.I. No. 261 of 2014), arts. 2 and 3.
- E20** Property vesting day appointed (1.07.2014) and Louth and Meath Education and Training Board designated for purpose of section (13.06.2014) by *Further Education and Training Act 2013 (Property Vesting Day) Order 2014* (S.I. No. 260 of 2014), arts. 2 and 3.
- E21** Property vesting day appointed (1.01.2014) and Kerry Education and Training Board designated for purpose of section (20.12.2013) by *Further Education and Training Act 2013 (Property Vesting Day) (No. 4) Order 2013* (S.I. No. 543 of 2013), arts. 2 and 3.
- E22** Property vesting day appointed (1.01.2014) and Dublin and Dun Laoghaire Education and Training Board designated for purpose of section (20.12.2013) by *Further Education and Training Act 2013 (Property Vesting Day) (No. 3) Order 2013* (S.I. No. 542 of 2013), arts. 2 and 3.
- E23** Property vesting day appointed (1.01.2014) and City of Dublin Education and Training Board designated for purpose of section (20.12.2013) by *Further Education and Training Act 2013 (Property Vesting Day) (No. 2) Order 2013* (S.I. No. 541 of 2013), arts. 2 and 3.
- E24** Property vesting day appointed (1.01.2014) and Cork Education and Training Board designated for purpose of section (20.12.2013) by *Further Education and Training Act 2013 (Property Vesting Day) Order 2013* (S.I. No. 540 of 2013), arts. 2 and 3.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by An tSeirbhís.

48.— (1) All rights and liabilities of An tSeirbhís—

(a) subsisting immediately before a property vesting day, and

(b) arising by virtue of any contract or commitment (expressed or implied)—

(i) relating to any land or property designated by the order under *section 47* that appointed that day, or

(ii) for the provision of a service that immediately before that day was provided on land so designated,

shall on that day stand transferred to the education and training board designated by that order.

(2) Every right and liability transferred by *subsection (1)* to an education and training board may, on and after the property vesting day on which the right or liability stood transferred, be sued on, recovered or enforced by or against the education and training board concerned in its own name, and it shall not be necessary for the education and training board or An tSeirbhís to give notice to the person whose right or liability is transferred by that subsection of its transfer.

(3) Every lease, licence, wayleave or permission granted by An tSeirbhís in relation to land or other property vested in an education and training board by or under this Act, and in force immediately before the property vesting day concerned, shall continue in force as if granted by that education and training board.

Provisions consequent upon transfer of functions, assets and liabilities to An tSeirbhís.

49.— Anything commenced and not completed before a property vesting day by or under the authority of An tSeirbhís may, in so far as it relates to a function transferred to an education and training board on that day under *subsection (6) of section 47* be carried on or completed on or after that day by that education and training board.

Amendment of Freedom of Information Act 1997.

50.— The Freedom of Information Act 1997 is amended by—

(a) the insertion, in subparagraph (2) of paragraph 1 of the First Schedule, of “An tSeirbhís Oideachais Leanúnaigh agus Scileanna”, and

(b) the insertion—

(i) in column (2) of Part I of the Third Schedule, of “the *Further Education and Training Act 2013*”, and

(ii) in column (3) of that Part opposite the mention in the said column (2) of the *Further Education and Training Act 2013*, of “*section 18*”.

Amendment of section 52 of Qualifications and Quality Assurance (Education and Training) Act 2012.

51.— Section 52 of the Qualifications and Quality Assurance (Education and Training) Act 2012 is amended, in subsection (2), by the insertion of the following paragraph:

“(aa) an education and training board established by section 9 of the Education and Training Boards Act 2013;”.

SCHEDULE

REDRESS FOR CONTRAVENTION OF SECTION 35

F2[Decision under section 41 of Workplace Relations Act 2015

1. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of subsection (1) of section 35 shall do one or more of the following, namely—

- (a) declare that the complaint was or, as the case may be, was not well founded,
- (b) require the employer to take a specified course of action, or
- (c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all the circumstances but not exceeding 2 years' remuneration in respect of the employee's employment.]

F2[Decision of Labour Court on appeal from decision referred to in paragraph 1

2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in paragraph 1, shall affirm, vary or set aside the decision of the adjudication officer.]

Paragraphs 1 and 2: supplemental provisions.

3. F3[...]

Enforcement of determinations of Labour Court.

4. F3[...]

Annotations**Amendments:**

- F2** Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 item 32, S.I. No. 410 of 2015, subject to transitional provision in subs. (3).
- F3** Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 item 30, S.I. No. 410 of 2015, subject to transitional provision in subs. (2).