

APPENDIX A

General Scheme of an Education (Parent and Student Charter) Bill 2016

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Head 1 LONG TITLE

AN ACT TO AMEND SECTION 28 OF THE EDUCATION ACT 1998 AND TO SET OUT THE PRINCIPLES THAT WILL GUIDE HOW SCHOOLS ENGAGE WITH PARENTS AND STUDENTS, TO SET OUT THE POWER OF THE MINISTER TO REQUIRE SCHOOLS TO HAVE A PARENT AND STUDENT CHARTER, TO SET OUT THE PRINCIPLES ON WHICH THE PARENT AND STUDENT CHARTER WILL BE BASED, TO ALLOW THE MINISTER TO PUBLISH GUIDELINES BY WHICH THE PARENT AND STUDENT CHARTER SHALL BE PREPARED, PUBLISHED AND OPERATED IN ACCORDANCE WITH, TO PROVIDE A POWER TO ENABLE THE MINISTER TO DIRECT SCHOOL BOARDS TO COMPLY WITH THE GUIDELINES, TO ALLOW THE MINISTER PUBLISH INFORMATION ON THE DIRECTIONS ISSUED, TO ALLOW THE MINISTER REVOKE DIRECTIONS GIVEN TO SCHOOL BOARDS, TO REQUIRE SCHOOLS TO CONSIDER SUGGESTIONS, GUIDANCE OR RECOMMENDATIONS MADE BY THE OMBUDSMAN FOR CHILDREN, TO ALLOW THE OMBUDSMAN FOR CHILDREN TO ADVISE THE MINISTER OF ANY SUGGESTIONS, GUIDANCE OR RECOMMENDATIONS MADE TO A BOARD AND TO PROVIDE A POWER TO ENABLE THE MINISTER TO DIRECT THAT BOARD IN RELATION TO THE MATTERS CONVEYED TO THE MINISTER BY THE OMBUDSMAN FOR CHILDREN, TO AMEND SECTION 9 OF THE OMBUDSMAN FOR CHILDREN ACT 2002 TO EXPAND THE ROLE OF THE OMBUDSMAN FOR CHILDREN TO INVESTIGATE A SCHOOL IN CONNECTION WITH ANY FUNCTIONS REQUIRED OF A SCHOOL UNDER THE NEW SECTION 28 OF THE ACT OF 1998, TO DELETE SUBSECTION 9 (2) OF THE OMBUDSMAN FOR CHILDREN ACT 2002, TO AMEND SECTION 9 OF THE ACT OF 1998 TO INCLUDE AMONG THE FUNCTIONS OF A SCHOOL A REQUIREMENT THAT A SCHOOL MUST PROMOTE THE

INVOLVEMENT OF PARENTS AND STUDENTS IN THE EDUCATION PROVIDED TO STUDENTS, AND TO AMEND SECTION 27(4) OF THE ACT OF 1998 TO CHANGE THE REQUIREMENT ON A STUDENT COUNCIL FROM ONE OF PROMOTING THE INTEREST OF THE SCHOOL TO A REQUIREMENT TO PROMOTE THE INTERESTS OF THE STUDENTS OF THE SCHOOL HAVING REGARD TO THE CHARACTERISTIC SPIRIT AND POLICIES OF THE SCHOOL AND THE PRINCIPLES SET OUT IN SECTION 28.

Explanatory Note

The Long Title of the Bill provides that the purpose of this Bill is to amend Section 28 of the Education Act 1998 and to set out the principles that will guide how schools engage with parents and students, to require each School to have a Parent and Student Charter, that the Parent and Student Charter will be based on principles set out in Section 28, the Minister will publish guidelines on a Parent and Student Charter following consultation with the education partners, it will be a requirement for a School Board to prepare, publish and operate a Parent and Student Charter that follow the guidelines set by the Minister, the Minister will have the power to direct school boards to comply with the guidelines, allow the Minister publish information on the directions issued, allow the Minister revoke directions given to school boards, to require schools to consider suggestions, guidance or recommendations made by the Ombudsman for Children, to allow the Ombudsman for Children to advise the Minister of any suggestions, guidance or recommendations made to a board and to provide a power to enable the Minister to direct that board in relation to the matters conveyed to the Minister by the Ombudsman for Children, to amend Section 9 of the Ombudsman for Children Act 2002 to expand the role of the Ombudsman for Children to investigate a school in connection with any functions required of a school under the new Section 28 of the Education Act 1998, to delete subsection 9 (2) of the Ombudsman for Children Act 2002, to amend Section 9 of the Education Act 1998 to include among the functions of a school a requirement that a school must promote the involvement of parents and students in the education provided to students, and to amend Section 27 (4) of the Education Act 1998 to change the requirement on a student council from one of promoting the interest of the school to a requirement to promote the interests of the students of the school having regard to the characteristic spirit and policies of the school and the principles set out in Section 28.

Head 2 Definitions

“Act of 1998” means the Education Act 1998.

“Board” means a Board of Management of a school.

“Charter” means a Parent and Student Charter.

“Minister” means the Minister for Education and Skills.

“Parent” includes a foster parent, a guardian appointed under the Guardianship of Children Acts, 1964 to 1997, or other person acting in loco parentis who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, means the adopter or adopters of the surviving adopter.

“Parent and Student Charter” means a Parent and Student Charter prepared, published and operated by a school in line with guidelines published by the Minister under Section 28 of the Education Act, 1998.

“School” means a recognised school within the meaning of section 10 of the Act of 1998.

“Student” means a person enrolled at a school.

Explanatory Note

This Head sets out common terms used in the General Scheme.

Head 3 Requirement that Schools have a Parent and Student Charter based on statutory principles and that follow guidelines set by the Minister

Section 28 of the 1998 Education Act is hereby amended by substituting the following for Section 28

“28 (1) To ensure that a school provides a quality experience for its students, embraces an inclusive role for parents and demonstrates how the school will relate to students they serve and to parents as the primary educators and education partners: the board of a recognised school shall have a parent and student charter which follows guidelines set by the Minister in accordance with this section, hereinafter referred to as the Parent and Student Charter.

(2) Without prejudice to the generality of subsection (1) the Parent and Student Charter will set out the service the school will provide, the standards that will be adhered to and the relationship the school will maintain with the students of the school and their parents based on the following principles:

(i) Placing the student at the centre of school life and securing optimum outcomes for each student in relation to the student’s learning and holistic development, through the student’s experiences in the school;

(ii) Respecting and valuing the role of a parent and recognising that a parent’s awareness of and participation in the learning and progress of the student can contribute to enhanced outcomes for the student;

(iii) Consulting students and parents and encouraging their engagement and full participation in relation to school policies and plans;

(iv) Providing students and parents with information, including accountability for provision and information on school performance;

(v) Consulting students and parents regularly in relation to school costs and working to avoid costs acting as a barrier to participation;

(vi) Inviting feedback, comment and observations from students and parents and developing a listening culture in the school;

(vii) Ensuring courtesy, confidentiality and equality of esteem;

(viii) Seeking parental consent where appropriate;

(ix) Providing a safe environment;

(x) Operating quality assurance;

(xi) Acknowledging gaps, deficiencies or room for improvement;

(xii) Positively seeking to address parent and student concerns and electively providing redress as appropriate in order to obviate as far as possible the need for a parent or student to rely on grievance and complaint processes;

(xiii) Providing processes for grievance and complaint resolution, including mediation and remediation where appropriate, and

(xiv) Having procedures that include accounting for the outcome of a complaint, the reasons for the outcome, and the basis on which the outcome was determined by the school.

(3) From time to time the Minister will publish guidelines following consultation with parents, students, recognised school management bodies and staff associations representing teachers and any such other body or Minister of the Government that the Minister considers appropriate, and such guidelines will be prepared in accordance with the principles set out in subsection (2).

(4) The board of a recognised school shall prepare, publish and operate a Parent and Student Charter that follows the guidelines set by the Minister.

(5) The Minister may determine the date on which schools must commence the operation of a Parent and Student charter”.

Explanatory Note

The Head amends Section 28 of the Education Act 1998 by substituting it with a new section which sets out the principles that will guide how schools engage with parents and students. The purpose of this head is to require a recognised school (i.e. a school recognised under section 10 of the Education Act 1998) to have a Parent and Student Charter. The Parent and Student Charter will be based on principles set out in Section 28.

The Head provides for the Minister to publish guidelines on a Parent and Student Charter following consultation with the education partners – parents, students, recognised school management bodies and staff associations representing teachers and any other body or minister of the Government that the Minister considers appropriate.

The Head provides that the board of a recognised school shall prepare, publish and operate a Parent and Student Charter that follows the guidelines set by the Minister.

The Head provides that the Minister may determine the date on which schools must commence the operation of a Parent and Student Charter.

Head 4 To set out the power of the Minister to direct School Boards to comply with the guidelines on a Parent and Student Charter

The following subsections are also being added to the new Section 28

“(6) Where the Minister having regard to the principles in (2) considers that a board;

i) has failed to prepare a Parent and Student Charter,

ii) has failed to publish a Parent and Student Charter,

iii) has failed to operate a Parent and Student Charter,

iv) has failed to publish in whole or in part a Parent and Student Charter in accordance with the guidelines or

v) has failed to operate in whole or in part a Parent and Student Charter in accordance with the guidelines;

the Minister may, subject to subsections (7) to (10), give a direction in writing to that board requiring compliance with the guidelines.

(7) The Minister shall, by notice in writing, inform the board where he or she proposes to give a direction under subsection (6) and state the terms of the proposed direction and give the reasons there for.

(8) A board may make representations in writing to the Minister in relation to the proposed direction not later than 14 days from the date of service of a notice under subsection (7).

(9) The Minister shall consider any representations made to him or her under subsection (8) prior to giving a direction under subsection (6).

(10) A board shall comply with a direction given to that board under subsection (6).

(11) From time to time, the Minister may publish information on the directions issued under Section 28 and this information may include the name of the school and the nature of the direction given by the Minister.

(12) In the preparation of guidelines or directions under this section the Minister will also have regard to:

(i) how boards may respect student voice having regard to the age and experience of the students and

(ii) the desirability of resolving grievances and complaints in the school concerned.

(13) The Minister may revoke directions made under subsection (6) where the board has complied with the direction of the Minister.

(14) Where the Minister revokes directions made under subsection (6) the board concerned shall operate a charter in accordance with guidelines published under subsection (3)”.

Explanatory Note

The Head provides for a power of the Minister to direct a school board to comply with the guidelines on a Parent and Student Charter. A direction can be given by the Minister where it is considered that a school board has:

1. Failed to prepare a Parent and Student Charter,
2. Failed to publish a Parent and Student Charter,
3. Failed to operate a Parent and Student Charter,
4. Failed to publish in whole or in part a Parent and Student Charter in accordance with the guidelines or
5. Failed to operate in whole or in part a Parent and Student Charter in accordance with the guidelines.

The Head allows for the Minister to write to inform a school board where he or she proposes to give a direction and state the terms of the proposed direction and give the reasons for the direction. A school board may make representations to the Minister within 14 days from the date of service of a direction. The Minister will then consider any representations made to him or her prior to giving a final direction.

The Head provides that a school board shall comply with a direction given by the Minister.

The Head allows the Minister to publish information on the directions issued under Section 28. This information may include the name of the school and the nature of the direction given by the Minister.

The Head provides for the Minister to consider certain issues in the preparation of guidelines or directions under Section 28. These issues are how school boards may respect student voice having regard to the age and experience of the students and the desirability of resolving

grievances and complaints in the school concerned. This reflects the different student ages in primary and post-primary schools. It also reflects the focus in the original Section 28 of the Education Act 1998 on the desirability of resolving grievances in the school at local level.

The Head also provides for the Minister to revoke directions given where the school board has complied with the direction of the Minister. In these cases, the board must continue to operate a Parent and Student Charter in accordance with the guidelines.

Head 5 Provide for a power of the Minister to publish revised guidelines from time to time

Subsection 15 is also being added to the new Section 28.

“(15) The Minister may from time to time publish revised guidelines having consulted as set out in subsection (3) and may determine the date on which a Charter in accordance with such revised guidelines shall come into effect”.

Explanatory Note

This Head allows for the Minister to publish revised guidelines from time to time after consultation with the education partners. The Minister may also determine the date on which a Parent and Student Charter in accordance with such revised guidelines shall come into effect.

Head 6 Schools must consider suggestions, guidance or recommendations made by the Ombudsman for Children

Subsection 16 is also being added to the new Section 28.

“(16) (i) Where the Ombudsman for Children makes suggestions to a board, or provides guidance to a board, or where following an investigation under the Ombudsman for Children Act 2002 the Ombudsman for Children makes recommendations to a board in relation to the actions of a school, the board shall consider any such suggestions, guidance or recommendations.

(ii) Where the Ombudsman for Children advises the Minister of any suggestions, guidance or recommendations made to a board, the Minister may, subject to subsections 16 (iii) to 16 (v), give a direction in writing to that board in relation to the matters conveyed to the Minister by the Ombudsman for Children.

(iii) The Minister shall, by notice in writing, inform the board where he or she proposes to give a direction under subsection 16 (ii) and state the terms of the proposed direction and give reasons there for.

(iv) A board may make representations in writing to the Minister in relation to the proposed direction not later than 14 days from the date of service of a notice under subsection 16 (iii).

(v) The Minister shall consider any representations made to him or her under subsection 16 (iv) prior to giving a direction under subsection 16 (ii).

(vi) A board shall comply with a direction given to that board under subsection 16 (ii).”

Explanatory Note

This Head provides for a school to consider any recommendations made by the Ombudsman for Children after his or her office completes an investigation. It also requires a school to consider any suggestions or guidance given by the Ombudsman where a complaint is under consideration or where the matter is concluded without a formal investigation.

The Head provides for the Ombudsman for Children to advise the Minister for Education and Skills of any suggestions, guidance or recommendations made to a school board and for the

Minister to have a power to give a direction to that board in relation to the matters conveyed to the Minister by the Ombudsman for Children.

The Head allows for the Minister to write to inform a school board where he or she proposes to give a direction and state the terms of the proposed direction and give the reasons for the direction. A school board may make representations to the Minister within 14 days from the date of service of a direction. The Minister will then consider any representations made to him or her prior to giving a final direction.

The Head provides that a school board shall comply with a direction given by the Minister.

Head 7 Amendment of Section 9 of the Ombudsman for Children Act, 2002

Section 9 (1) (a) of the Ombudsman for Children Act, 2002 is amended by the insertion of “and any functions required of a school under Section 28 of the Act of 1998” after 1998.

and

the deletion of Section 9 (2) of the Ombudsman for Children Act, 2002.

Explanatory Note

The Head amends the Ombudsman for Children Act 2002 to ensure that the scope of the Ombudsman for Children’s capacity to investigate includes the new additional functions being placed on schools through the revised primary legislation and the statutory guidelines that will be published by the Minister in relation to a Parent and Student Charter.

The Head amends the Ombudsman for Children Act 2002 by deleting the provision which requires the Ombudsman for Children to investigate an action by a school only where the procedures under Section 28 have been resorted to and exhausted in relation to the action.

Head 8 Amendment of Section 9 of the Education Act, 1998

Section 9 of the Education Act, 1998 is amended by the insertion of an additional function of a school to “(n) promote the involvement of parents and students in the education provided to students.”

Explanatory Note

The Head provides for an additional function of a school under Section 9 of the Education Act, 1998. This additional function provides that recognised schools promote the involvement of parents and students in the education provided to students.

Head 9 Amendment of Section 27 of the Education Act, 1998

In subsection 27 (4) of the Education Act 1998 delete the words “interests of the school and”, and replace them with “interests of the students of the school having regard to the characteristic spirit and policies of the school and the principles set out in Section 28, and shall promote”.

Explanatory Note

This Head provides for a change in the requirement of a student council from one of promoting the interest of the school to a requirement to promote the interests of the students of the school having regard to the characteristic spirit and policies of the school and the principles set out in Section 28.