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Chief Executive Officer  
of the Vocational Education Committee  
named in the address.

21<sup>st</sup> September, 2004.

Circular Letter No. F59/04

## Commencement of Vocational Education (Amendment) Act, 2001

Dear Chief Executive Officer,

The Vocational Education (Amendment) Act, 2001 itself provides that the Minister may bring its provisions into effect through commencement orders. The Minister has already made a number of commencement orders. Section 8 of the Act was commenced by order on 6<sup>th</sup> July 2001 and Sections 11, 12, 15 and 20 were commenced by order on 20<sup>th</sup> July 2001. Further Sections have been commenced by order on 2<sup>nd</sup> June 2004, which are described below. It is the Minister's intention that the remaining sections of the Act will be brought into operation as soon as practicable in 2004. This Circular Letter has been published on the Web and may be accessed at [www.education.ie](http://www.education.ie).

This Circular Letter should be circulated in the normal way.

Any queries regarding the implementation of this Circular Letter should be addressed to Noreen Bevans or Oliver Hughes in Tullamore. (Tel: 0506-24336, Fax: 0506-25347).

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# **VOCATIONAL EDUCATION (AMENDMENT) Act, 2001**

## **Section 2: Interpretation**

This is the definition section. It defines the key terms used in the Act. It is a standard provision in legislation.

## **Section 3: Orders**

This section provides that every Ministerial order made under this Act, other than a commencement order, will be laid before each House of the Oireachtas. These will be effective unless annulled by either House within 21 days of an order being laid.

## **Section 5: Expenses**

This section provides that any expenses incurred by the Minister in the administration of the Act shall be paid out of monies provided by the Oireachtas. It is a standard provision in legislation of this sort.

## **Section 6: Service of documents**

This section provides a mechanism for the service of notices and other documents under the Act. It is a standard provision in legislation.

## **Section 10: Conferral of additional functions on vocational education committee**

This section permits the Minister to confer additional functions on a VEC, subject to such conditions as he or she thinks fit. This section allows for the structured development of the VEC sector over time, in accordance with Government policy.

## **Section 13: Transfer of functions of vocational education committee**

Section 13 permits the Minister, where he or she considers that a VEC is not performing its functions properly or has ignored a direction of the Minister, to transfer functions to the CEO or

another specified person. The transfer can be for any period up to 2 years. Where the Minister proposes to do this, he or she informs the VEC and gives it an opportunity to make representations on this. These representations are then taken into account by the Minister in making his or her final decision. The Minister may also appoint someone to investigate the performance by a VEC of its functions.

This provision is in place to allow for an extreme situation where there is clear mismanagement in a VEC, or where the VEC is attempting to carry out policies, which are in contravention of Government policies. It ensures that the Minister will be able to intervene to

address the particular problems that may have arisen. Similar protections can be found in the Education Act in respect of school boards of management.

#### **Section 14: Directions of Minister**

This section provides that each VEC will operate within the policy parameters laid down by the Minister.

#### **Section 16: Delegation by Chief Executive Officer**

This section permits the CEO to delegate his or her functions to a member of staff and, where such delegation is made, the staff member will be required to perform that function.

#### **Section 17: Accountability of Chief Executive Officer to Public Accounts Committee**

This section copperfastens the accountability of VECs to the Public Accounts Committee.

#### **Section 18: Accountability of Chief Executive Officer to other Oireachtas Committees**

This section copperfastens the accountability of VECs to Committees of this House, other than the Public Accounts Committee.

#### **Section 19: Application of section 19 of Comptroller and Auditor General (Amendment) Act, 1993, to vocational education committees**

This section addresses any potential misunderstandings about the position of the CEO of the VEC as accounting officer in the context of the 1993 C & AG Act. The section ensures that the CEO will act as Accounting Officer.

## **Section 21: Cooperation between vocational education committees**

Section 21 provides that 2 or more VECs may co-operate with each other, either on their own initiative or at the direction of the Minister. Co-operation can include the joint acquisition of property. Where the Minister makes a direction, he or she shall notify the VEC of his or her intention to make such a direction and shall outline the reasons for the direction. The VEC will be given an opportunity to make representations and the Minister must take these into account in deciding whether or not to issue a direction.

## **Section 22: Expenditure limit for vocational education committee**

This section prohibits a VEC from incurring expenditure in excess of an annual limit determined by the Minister. The Minister has power to vary this limit. An obligation is placed on the CEO to inform the Minister if he or she feels that, due to the action or proposed course of action of the committee, it is likely to breach its expenditure limit.

## **Section 23: Aggregate of monies borrowed by vocational education committee**

This gives the Minister the power to limit the amount of money a VEC can borrow at any given time.

## **Section 24: Deposit of monies standing to the credit of vocational education committee**

This section provides that VECs may avail of the treasury management services provided by the National Treasury Management Agency (NTMA).

The NTMA (Amendment) Act, 2000 provided that the NTMA could offer its services to VECs. This section therefore ensures that VECs may get the best return on monies held on demand, either through the NTMA or some other financial agency.

## **Section 27: Expenditure in excess of amount determined under *section 22***

Section 27 provides that where a VEC breaches its expenditure limit in a given year, the amount in excess of the limit will be treated as expenditure in the following financial year. Where a VEC incurs less expenditure than the limit set, the balance may be carried forward to the next financial year and added to the VEC's budget.

This is a significant new feature to the financial structures of VECs. It will allow VECs to undertake a multi-annual approach to expenditure for the first time. This will mean that VECs will be able to factor savings in any one year into future expenditure. However it also places a very real responsibility on VECs to manage their affairs so that they do not incur deficits, which will reduce their spending into the future.

## **Section 31: Subcommittees of vocational education committee**

This section replaces the existing provision governing sub-committees in the 1930 VEC Act. The 1930 Act provided for a VEC to establish a sub-committee to perform such functions as the VEC may decide appropriate. The new provision also allows VECs to establish sub-committees to advise it on the performance of its functions. The new section also removes the limit on the numbers of persons in a sub-committee established on the direction of the Minister.

In establishing a sub-committee the VEC may determine its terms of reference and regulate its procedure. In addition, the Minister can require a VEC to establish a sub-committee to perform certain functions. Sub-committees can be composed partly of people who are not members of the VEC.

This section also provides for the procedures regarding the dissolution of sub-committees and the appointment of chairpersons. The acts of every sub-committee (other than an advisory committee) will be subject to ratification by the VEC itself, unless the Minister agrees to dispense with this requirement.

## **Section 34: Amendment of section 38 of Principal Act**

This section amends section 38 of the Vocational Education Act, 1930 by removing references to a “borough vocational education area” as, with the exception of Dún Laoghaire VEC, reference to these areas are repealed by this Act.

## **Section 36: Amendment of Education Act of 1998**

This section amends sections 28 and 54 of the Education Act, 1998.

Section 28 provides for a school based appeal mechanism for students and parents. The Act currently excludes a number of issues from this mechanism, namely, expulsions, suspensions, and refusals to enroll a student. These are the subject of a separate national appeals mechanism. It is now proposed that these issues should also be included in the school-based mechanism.

Section 54 provides for the Minister to establish bodies corporate to provide support services for schools. The section provides that the principal officer of any such body shall be accountable to the Minister in providing for these support services. It is considered more appropriate that the principal officer should be accountable to the body itself, who will then be responsible generally to the Minister for its performance. This amendment to section 54 allows for such an arrangement.