

Planning and Development Act 2000 -2015 (Section 106 –Appointment of Ordinary Members)

Appointment of ordinary members.

106.—(1) The Minister shall appoint the 9 ordinary members of the Board as follows:

(a) 2 members shall be appointed from amongst persons nominated for such appointment by such organisations that, in the Minister’s opinion, are representative of persons whose professions or occupations relate to physical planning, engineering and architecture as may be prescribed;

(b) 2 members shall be appointed from amongst persons nominated for such appointment by such organisations that, in the Minister’s opinion, are concerned with economic development, the promotion of and carrying out of development, the provision of infrastructure or the development of land or otherwise connected with the construction industry as may be prescribed;

(c) 2 members shall be appointed from among persons nominated for such appointment by such—

(i) organisations that, in the Minister’s opinion, are representative of the interests of local government,

(ii) bodies representing farming, and

(iii) trade unions,

as may be prescribed;

(d) 2 members shall be appointed from among persons nominated for such appointment by such—

(i) organisations that, in the Minister’s opinion, are representative of persons concerned with the protection and preservation of the environment and of amenities,

(ii) voluntary bodies and bodies having charitable objects,

(iii) bodies that, in the Minister’s opinion, have a special interest or expertise in matters relating to rural and local community development, the promotion of the Irish language or the promotion of heritage, the arts and culture,

(iv) bodies that are representative of people with disabilities, and

(v) bodies that are representative of young people,

as may be prescribed;

(e) one member who, in the Minister’s opinion, has satisfactory experience, competence or qualifications as respects issues relating to the environment and sustainability.

(2) The Minister shall prescribe at least 2 organisations for the purposes of each of paragraphs (a) to (d) of subsection (1).

(3) Where the Minister decides to appoint one or more members to the Board pursuant to an order under *section 104(2)*—

(a) where not more than 6 additional members are appointed, not more than one shall be appointed from among persons selected by organisations which are prescribed for the purposes of a particular paragraph of *subsection (1)*;

(b) where more than 6 but not more than 12 additional members are appointed, not more than 2 shall be appointed from among persons selected by organisations which are prescribed for the purposes of a particular paragraph of *subsection (1)*.

(4) An organisation prescribed for the purposes of paragraph (a), (b), (c) or (d) of *subsection (1)*, shall, whenever so requested by the Minister, nominate such number of candidates (not being less than two) as the Minister may specify for appointment as an ordinary member and shall inform the Minister of the names of the candidates nominated and of the reasons why, in the opinion of the organisation, they are suitable for appointment.

(5) Except in the case of an appointment pursuant to *subsection (1)(e)* or a re-appointment under *subsection (12)* and subject to *subsection (6)* and *section 108(4)*, the Minister shall not appoint a person to be an ordinary member unless the person was nominated pursuant to a request under *subsection (4)* in relation to that appointment.

(6) Where—

(a) pursuant to a particular request under *subsection (4)*, an organisation refuses or fails to nominate any candidate, or

(b) the Minister decides not to appoint as an ordinary member any candidate nominated by the organisations pursuant to a particular request under that subsection,

then—

(i) the Minister shall appoint as an ordinary member a person who was among those nominated by such an organisation pursuant to a previous request (if any) under that subsection in relation to that appointment,

(ii) the Minister shall make a further request and shall appoint as an ordinary member a person who was among those nominated pursuant to that request or pursuant to another request made in relation to that appointment, or

(iii) the Minister shall appoint as an ordinary member a person selected by a committee established under *subsection (7)*.

(7) (a) There shall be a committee (“the committee”) consisting of—

(i) the chairperson,

(ii) the Assistant-Secretary of the Department of the Environment and Local Government with responsibility for planning and sustainable development,

and

(iii) the Chairperson of the Heritage Council.

(b) The committee shall, whenever so requested by the Minister—

(i) by notice in one or more national newspapers, invite applications for appointment as an ordinary member by suitably qualified persons,

(ii) select 3 candidates, or if in the opinion of the committee there is not such a sufficient number of suitable applicants, such lesser number of candidates as the committee shall determine, for appointment as an ordinary member, having regard to the knowledge and experience and other qualifications or personal qualities which the committee considers appropriate to enable a person effectively to perform the functions of an ordinary member, and

(iii) inform the Minister of the names of the candidates or, as may be appropriate, the name of the candidate, selected and of the reasons why, in the opinion of the committee, they are or he or she is suitable for the appointment.

(8) Where a request is made under *subsection (4)*, failure or refusal by the organisation of whom the request is made to nominate the number of candidates specified in the request shall not preclude the appointment as an ordinary member of a person who was nominated in relation to that appointment either by the organisation or by any other organisation.

(9) The Minister may make regulations as regards—

(a) the period within which the Minister is to be informed in accordance with *subsection (4)*, and

(b) any other matter which the Minister considers expedient for the purposes of this section.

(10) A person who is for the time being—

(a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a member of the European Parliament, or

(c) a member of a local authority,

shall be disqualified from being appointed as an ordinary member.

(11) Each of the ordinary members shall be appointed in a whole-time capacity and shall not at any time during his or her term of office hold any other office or employment in respect of which emoluments are payable.

(12) Subject to *section 108(4)(b)*, an ordinary member shall hold office for such term (not exceeding 5 years) as shall be specified by the Minister when appointing him or her to office and may be re-appointed by the Minister for a second or subsequent term of office provided that a person shall not be re-appointed under this subsection unless, at the time of his or her re-appointment, he or she is or was an outgoing member of the Board.

(13) (a) An ordinary member may resign his or her membership by letter addressed to the Minister and the resignation shall take effect on and from the date of the receipt of the letter by the Minister.

(b) A person shall vacate the office of ordinary member on attaining the age of 65 years but where the ordinary member is either—

(i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed on or after 1 April 2004,

or

(ii) a Scheme member (within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012), then the requirement under this subsection to vacate office on grounds of age shall not apply.

(c) A person shall cease to be an ordinary member if he or she—

(i) is nominated either as a member of Seanad Éireann or for election to either House of the Oireachtas or to the European Parliament,

(ii) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament to fill a vacancy, or

(iii) becomes a member of a local authority.

(d) A person shall cease to be an ordinary member of the Board if he or she—

(i) is adjudicated bankrupt,

(ii) makes a composition or arrangement with creditors,

(iii) is convicted of any indictable offence in relation to a company,

(iv) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(v) is sentenced by a court of competent jurisdiction to a term of imprisonment, (vi) is the subject of an order under section 160 of the Companies Act, 1990,

or

(vii) ceases to be resident in the State.

(14) (a) There shall be paid by the Board to each ordinary member such remuneration and allowances for expenses as the Minister, with the consent of the Minister for Finance, determines.

(b) Subject to the other provisions of this section, an ordinary member shall hold office on such terms and conditions as the Minister, with the consent of the Minister for Finance, determines.

(15) An ordinary member may be removed from office by the Minister if he or she has become incapable through ill-health of effectively performing his or her functions, or if he or she has committed stated misbehaviour, or if his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions, and in case an ordinary member is removed

from office under this subsection, the Minister shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.