



STATUTORY INSTRUMENTS.

**S.I. No. 56 of 2019**



WATER SAFETY IRELAND (ESTABLISHMENT) ORDER 2019

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## Water Safety Ireland (Establishment) Order 2019

I, MICHAEL RING Minister for Rural and Community Development in exercise of the powers conferred on me by section 3 of the Local Government Services (Corporate Bodies) Act 1971 (No. 6 of 1971) and the Community Development (Transfer of Departmental Administration and Ministerial Functions) Order 2018 (S.I. No. 165 of 2018), with the consent of the Minister for Public Expenditure and Reform hereby order as follows:

1. This Order may be cited as the Water Safety Ireland (Establishment) Order 2019.

2. In this Order-

“Body” means the body established by Article 3(1);

“Chairperson” has the meaning given to it by Article 6;

“Chief Executive” means the person appointed to be Chief Executive under Article 7;

“Council” means the Council appointed under Article 5;

“dissolved body” means the body dissolved by section 10(e) of the Local Government (Miscellaneous Provisions) Act 2012 (No. 17 of 2012);

“enactment” means-

(a) an Act of the Oireachtas,

(b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or

(c) an instrument made under an Act of the Oireachtas or a statute referred to in paragraph (b);

“establishment day” means the day appointed under Article 3(2) to be the establishment day;

“life-guards” shall be construed in accordance with section 37 of the Local Government (Sanitary Services) Act 1948 (No. 3 of 1948);

“local authority” has the meaning given to it by the Local Government Act 2001 (No. 37 of 2001);

“Minister” means the Minister for Rural and Community Development;

“public body” means –

(a) a Department of State for which a Minister of the Government is responsible,

(b) a local authority,

(c) any other person, body or organisation established –

(i) by or under an enactment (other than the Companies Acts) or charter,

(ii) by any scheme administered by a Minister of the Government, or

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” 22nd of February, 2019.*

- (iii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,
  - (d) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government,
  - (e) any other person, body, organisation or group appointed by the Government or a Minister of the Government;
- “volunteer member” means a member of the Body registered under Article 14(3);
- “water safety area committee” means a committee established under Article 13.

3. (1) There shall stand established on the establishment day a body to be known as, in the Irish language, Sabháilteacht Uisce na hÉireann or, in the English language, Water Safety Ireland (in this Order referred to as the “Body”) to provide the services specified in this Order.

(2) The 18th day of February 2019 is appointed to be the establishment day.

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

(4) The seal of the Body shall be authenticated by the signature of –

- (a) the Chairperson or a member of the Body authorised by the Body to act in that behalf, and
- (b) a member of staff of the Body authorised by the Body to act in that behalf.

4. (1) The Body shall provide the following services for or on behalf of the Minister:

- (a) the promotion of public awareness of water safety;
- (b) the promotion of measures, including the advancement of education, related to the prevention of accidents in water;
- (c) the provision of instruction in water safety, rescue, swimming, resuscitation and recovery drills;
- (d) the promotion of efficiency of the service provided by lifeguards, including enhancing the standard of lifesaving through the promotion and development of lifesaving to international standards;
- (e) the establishment of, and provision of training in, national standards for lifeguards, lifesaving and water safety;
- (f) the provision of instruction, training, assessment and certification in aquatic rescue for boat crews of independent voluntary community organisations for the time being known

as the “Community Rescue Boats Service” and other organisations involved in aquatic rescue.

(2) Without prejudice to the generality of paragraph (1), in performing services under this Order, the Body may-

- (a) organise conferences, training courses, award ceremonies and competitions,
- (b) provide advisory services to and arrange publicity and educational programmes for the public or any class of members of the public,
- (c) publish in such form as it considers appropriate information, material, film or other matter,
- (d) receive subscriptions and source sponsorship,
- (e) charge a fee for the provision by it of a service referred to in this paragraph,
- (f) promote or assist in the development of appropriate safety codes, systems and equipment,
- (g) conduct examinations and issue certificates and awards relating to water safety,
- (h) issue licences, as it considers appropriate, to those persons providing the instruction of, and examination in, courses relating to water safety,
- (i) issue licences, as it considers appropriate, to persons providing inspection and risk assessment of courses relating to water safety,
- (j) with the consent of the Minister provide for rules to regulate the issue, renewal and surrender of licences or classes of licences,
- (k) establish and maintain a register of licences issued under subparagraphs (h) and (i),
- (l) conduct safety surveys and risk assessments in relation to water safety,
- (m) promote measures that raise awareness of and promote the safe recovery of bodies of victims of drowning accidents,
- (n) co-operate with other bodies, including public bodies and international bodies, who perform functions relating to water safety, and
- (o) promote aquatic environmental initiatives including the initiative operated by An Taisce – The National Trust for Ireland and for the time being known as the “Blue Flag” which requires compliance with the standards set out in Directive 2006/7/EC concerning the management of bathing water quality<sup>1</sup>,
- (p) with the consent of the Minister, given with the consent of the Minister for Public Expenditure and Reform, borrow money,
- (q) with the consent of the Minister, enter into commercial contracts for the provision of goods and services by it or to it,

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<sup>1</sup> OJ No. L 64, 4.3.2006, p. 37

- (r) with the consent of the Minister, purchase or lease any land or premises and sell, let or otherwise dispose of any land or premises vested in it,
- (s) accept gifts of money, land and other property upon such trusts and conditions, if any, consistent with the provision of its services, as may be specified by the donor,
- (t) make arrangements with the Minister or, with his or her consent, with a person or body, for the use by the Body of premises and equipment belonging to the Minister or that person or body and for the use of the services of officers and servants of the Minister or that person or body,
- (u) with the consent of the Minister for Public Expenditure and Reform where such moneys are provided by the Oireachtas, provide such assistance either by way of grants, prizes or other form of sponsorship as the Council may from time to time determine in respect of activities undertaken by any person with approval of the Council,
- (v) conduct fundraising through volunteer members to fund the services that shall be provided by those members, which funds shall be properly accounted for in accordance with current financial procedures of the water safety area committees as agreed by the Body.

(3) The Body shall have all such powers as are necessary or expedient for the provision by it of its services.

5. (1) (a) Subject to Regulation 3 of the Water Safety Ireland (Transfer of Assets and Liabilities) Order 2019, the Body shall have a Council, which shall consist of not more than 13 members (including a Chairperson) who shall, subject to subparagraph (b), be appointed by the Minister.
  - (b) At least 5 of the members of the Council referred to in paragraph (1) shall be appointed by the Minister on receipt of nominations from water safety area committees.
  - (c) The members referred to in subparagraph (b) shall be members of the Body who are selected by the water safety area committee to which they belong and nominated to the Minister for appointment following an election by each water safety area committee.
  - (d) The rules to regulate the procedure for elections and nominations referred to in subparagraph (c) shall be approved by the Council.
  - (e) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Council, there is an equitable balance between men and women.
- (2) (a) Subject to subparagraph (b), a member of the Council shall hold office for such period, not exceeding 5 years, from the date of his or her appointment as the Minister shall determine.

- (b) Subject to subparagraph (c), a member of the Council whose term of office expires by the efflux of time shall be eligible for reappointment to the Council.
  - (c) A person who is appointed to the Council in accordance with subparagraph (b) shall not hold office for a cumulative period of longer than 10 years.
- (3)
  - (a) A member of the Council may resign from office by giving notice in writing to the Minister of his or her resignation and the resignation shall take effect on the day on which the Minister receives the notice.
  - (b) The Minister may at any time remove from office a member of the Council if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective provision of services by the Council.
  - (c) The Minister may remove, either temporarily or permanently, members of the Council for conduct in breach of the Code of Practice for the Governance of State Bodies or such other codes or policy documents relevant to the governance of State Bodies that may be issued from time to time by a member of the Government.
  - (d) If a member of the Council dies, resigns, ceases to hold office or is removed from office, the Minister may appoint a person to be a member of the Council to fill the casual vacancy so occasioned in the same manner as the member of the Council who occasioned the casual vacancy was appointed.

6. (1) Subject to Regulation 3 of the Water Safety Ireland (Transfer of Assets and Liabilities) Order 2019, the Minister shall appoint a chairperson of the Council (in this Order referred to as the "Chairperson") who shall, subject to paragraph (2), hold office as chairperson for so long as he or she remains a member of the Body, or until the Minister appoints another chairperson, or until he or she resigns as chairperson by letter addressed to the Minister.

(2) A person shall not serve as chairperson for a cumulative period of longer than 10 years.

7. (1) There shall be a chief executive officer of the Body (in this Order referred to as the "Chief Executive").

(2) Subject to Regulation 3 of the Water Safety Ireland (Transfer of Assets and Liabilities) Order 2019, the Chief Executive shall be appointed by the Council with the consent of the Minister.

(3) The Chief Executive may be removed from office by the Council, with the consent of the Minister, at any time for stated reasons.

(4) The Chief Executive shall hold office upon, and subject to, such terms and conditions as may be determined by the Council with the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform.

8. (1) The Chief Executive shall carry on and manage, and control generally, the staff, administration and business of the Body and carry out such other functions as may be from time to time assigned to him or her by the Council.

(2) The Chief Executive shall perform his or her functions subject to such policies as may be determined from time to time by the Council, and shall be accountable to it for the efficient and effective management of the Body and for the due performance of his or her functions.

(3) The Chief Executive shall not be a member of the Council, but shall be entitled to attend and speak at any meeting of the Council or of any committee established by it under Article 13.

(4) The Chief Executive may make proposals to the Council on any matter relating to its functions.

(5) The Council may designate a member of staff of the Body to be a deputy chief executive officer who shall, in the absence of the Chief Executive or when the position of Chief Executive is vacant, perform the functions of that position.

9. (1) The Council shall be responsible for-

- (a) setting the strategic direction of the Body,
- (b) directing the business of the Body,
- (c) ensuring the effective provision of services by the Body,
- (d) monitoring the activities and effectiveness of the Chief Executive.

10. (1) The Council shall hold such and so many meetings as it considers necessary.

(2) At a meeting of the Council –

- (a) the Chairperson shall, if present, be the chairperson of the meeting, or
- (b) if and so long as the Chairperson is not present or if that office is vacant, the other members of the Council who are present shall choose one of their number to be the chairperson of the meeting.

(3) Every question at a meeting of the Council shall be determined by a majority of the votes of the members of the Council present and voting on the question, and, in the case of an equal division of votes, the Chairperson shall have a second or casting vote.

(4) Subject to paragraph (5), the Council may act notwithstanding one or more vacancies among its members.

(5) The quorum for a meeting of the Council shall be 5.

(6) Subject to the provisions of this Order, the Council shall determine its own procedures for the conduct of its meetings.

11. (1) The Body 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 –

- (a) all money received by or expended by the Body,

- (b) the sources of such income and the subject matter of such expenditure, and
- (c) the property, assets and liabilities of the Body.

(2) The Body shall each year submit accounts kept under paragraph (1) for audit to the Comptroller and Auditor General to the extent and by such date as he or she may from time to time direct.

(3) Immediately after the audit referred to in paragraph (2) the Body shall furnish to the Minister a copy of –

- (a) the accounts, and
- (b) the report of the Comptroller and Auditor General on the accounts.

(4) The Minister shall cause a copy of the accounts furnished under this Article and a copy of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas.

(5) The Body, and the members of staff of the Body shall, whenever so requested by the Minister or by an officer of the Minister authorised for that purpose, supply such information relating to its accounts as the Minister or such officer may require and shall permit the Minister or such officer to examine the books and accounts of the Body in respect of any year or other period and the Body shall facilitate any such examination.

12. (1) The Body shall, not later than 30 June in each year, prepare and submit a report to the Minister on its activities in the immediately preceding year.

(2) The Minister, as soon as may be after receiving the report, shall cause a copy of the report referred to in paragraph (1) to be laid before each House of the Oireachtas.

(3) The Body shall furnish to the Minister such information regarding the provision of services under this Order as the Minister may from time to time require.

(4) The Body shall furnish to the Minister in each year a programme of activities for the following year and an estimate of the expenditure to be incurred on such activities.

13. (1) The Council shall establish, or arrange for the establishment of, committees, including committees for specific subject areas and committees for geographical areas to be known as “water safety area committees”, consisting in whole or in part of persons who are members of staff of the Body or volunteer members of the Body, to –

- (a) assist and advise in relation to the provision by the Body of services under this Order, and
- (b) provide, or assist in the provision of, such of the services of the Body as the Body may determine.

(2) In appointing members of a committee established under paragraph (1), the Council shall –

- (a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee,



(b) endeavour to ensure in so far as is practicable that there is an equitable balance between men and women.

(3) There may be paid by the Body to members of a committee established under paragraph (1) such allowances for expenses (if any) incurred by them as the Council may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine.

(4) A member of a committee established under paragraph (1) may be removed from office at any time by the Council.

(5) The activities of a committee shall be subject to confirmation by the Council, unless it otherwise determines.

(6) The Council may determine the terms of reference, and prescribe the rules for the organisation, procedures, membership, election of officers and associated matters, of a committee established under paragraph (1).

(7) The Council may appoint a person to be chairperson of a committee established under paragraph (1).

(8) A committee established under paragraph (1) shall provide the Council with such information as the Council may from time to time require, in respect of its activities and operations, for the purposes of the provision of services by the Body.

(9) The Council may at any time dissolve a committee established under paragraph (1).

14. (1) The Body shall develop a corps of volunteer members to deliver education and training in water safety.

(2) The volunteer members shall pay an annual subscription fee to the Body and shall undergo such training as determined by the Council.

(3) The Body shall establish and maintain a register of –

(a) the volunteer members referred to in paragraph (1),

(b) any award or certificate issued by water safety area committees to volunteer members referred to in paragraph (1).

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

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

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

16. (1) Schemes and regulations made under the Local Government (Superannuation) Act 1980 (No. 8 of 1980) shall apply to the Body as if it were a local authority and shall apply to persons employed by the Body as if they were persons employed by a local authority.

(2) In the case of persons employed by the Body (including those employed by the dissolved body) from 1 January 2013, the terms of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37 of 2012) shall apply.

17. (1) There shall be paid by the Body to the Chairperson such remuneration and allowances as it, from time to time, subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform, determines.

(2) Travelling and subsistence allowances shall be paid by the Body to such persons or classes of persons in accordance with such scales and in such circumstances as may be determined from time to time by the Minister with the consent of the Minister for Public Expenditure and Reform.

The Minister for Public Expenditure and Reform consents to the making of the foregoing Order.



GIVEN under my Official Seal,  
15 February 2019.

PASCHAL DONOHOE,  
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,  
15 February 2019.

MICHAEL RING,  
Minister for Rural and Community Development.

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