

## STATUTORY INSTRUMENTS

# 1986 No. 594

## The Education and Libraries (Northern Ireland) Order 1986

### PART V

#### RIGHTS AND DUTIES OF PARENTS AND PROVISIONS RELATING TO INDIVIDUAL PUPILS

##### *General*

##### ***Pupils to be educated in accordance with wishes of their parents***

**44**<sup>F1</sup>. In the exercise and performance of all powers and duties conferred or imposed on them by<sup>F2</sup> the Education Orders], the Department and boards shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents.

**F1** certain functions transf. by SR 1999/481

**F2** 1989 NI 20

##### ***Duties of parents to secure full-time education for their children***

**45.**—(1) The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise.

(2) The provisions of Schedule 13 shall apply to the enforcement of the provisions of paragraph (1) and a parent who contravenes the provisions of that Schedule shall be guilty of an offence and liable to the penalties provided by paragraph 4 of that Schedule.

##### **Modifications etc. (not altering text)**

**C1** Art. 45(1) power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 17 para. 17](#) (with ss. 88-90)

**C2** Art. 45(1) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), s. 89 (with s. 90)

##### ***[<sup>F3</sup>Compulsory school age***

**46.**—(1) Subject to the following provisions of this Article, in the Education Orders the expression “compulsory school age” means any age between four years and sixteen years [<sup>F4</sup>or, in some deferred cases, seventeen years] and accordingly a person shall be of compulsory school age

if he has attained the age of four years and has not attained the age of sixteen years [<sup>F4</sup>or, in some deferred cases, seventeen years] .

[<sup>F5</sup>(1A) In this Article, “deferred case” means a case in which a person who attains the age of four years on any date occurring in the period beginning on (and including) 1st April in any year and ending on (and including) 1st July in the same year does not begin to receive full-time education until the following year, having attained the age of five years.

(1B) A reference in this Article to a person who attains a specified age on any date occurring in the period beginning on (and including) 1st April in any year and ending on (and including) 1st July in the same year includes—

- (a) a reference to a person who would have attained that age on a day in that period were it not for having been born prematurely, and
- (b) a reference to a person who was born before the beginning of that period but in whose case the expected week of childbirth was after the end of that period.]

(2) Where a person attains the age of four years—

- (a) [<sup>F6</sup>except in a deferred case,] on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in that following year;
- (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the following year.

[<sup>F7</sup>(2A) In a deferred case, where a person attains the age of four years on any date occurring in the period beginning on (and including) 1st April in any year and ending on (and including) 1st July in the same year, the person shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the year in which the person attained the age of five years.]

(3) Where a person attains the age of sixteen years—

- (a) [<sup>F8</sup>except in a deferred case,] on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the upper limit of compulsory school age until, or as the case may be, deemed to have attained that upper limit on 30th June in that following year or [<sup>F9</sup>a prescribed date] ;
- (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the upper limit of compulsory school age until 30th June in the following year or [<sup>F10</sup>a prescribed date] .]

[<sup>F11</sup>(4) In a deferred case, where a person attains the age of sixteen years on any date occurring in the period beginning on (and including) 1st April in any year and ending on (and including) 1st July in the same year, the person shall be deemed not to have attained the upper limit of compulsory school age until or, as the case may be, deemed to have attained that upper limit on 30th June in the following year or on a prescribed date.]

[<sup>F12</sup>(5) In this Article—

- “full-time education” means full-time education of the kind referred to in Article 45(1);
- “prescribed date” means such date as the Department may, by order subject to affirmative resolution, prescribe.]

- F3** 1989 NI 20
- F4** Words in art. 46(1) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(1), 4(1)
- F5** Art. 46(1A)(1B) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(2), 4(1)
- F6** Words in art. 46(2)(a) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(3), 4(1)
- F7** Art. 46(2A) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(4), 4(1)
- F8** Words in art. 46(3)(a) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(5)(a), 4(1)
- F9** Words in art. 46(3)(a) substituted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(5)(b), 4(1)
- F10** Words in art. 46(3)(b) substituted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(5)(b), 4(1)
- F11** Art. 46(4) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(6), 4(1)
- F12** Art. 46(5) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 1(7), 4(1)

### Commencement of secondary education

**46A.**—<sup>F13</sup>(1) [<sup>F13</sup>Except as provided by paragraph (2), (3) or (4)], a child shall commence secondary education—

- (a) where <sup>F14</sup>, except in a deferred case,] he attains the age of eleven years on a date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, on 1st August in that following year;
- <sup>F15</sup>(aa) in a deferred case, where the child attains the age of eleven years on a date occurring in the period beginning on (and including) 1st April in any year and ending on (and including) 1st July in the same year, on 1st August in the following year, with the child having attained the age of twelve years;]
- (b) where he attains that age on a date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, on 1st August in the following year <sup>F16</sup>, with the child having attained the age of twelve years] .

<sup>F13</sup>(2) A child shall commence secondary education on 1st August next before his normal date of commencement where—

- (a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that earlier date; and
  - (b) the parent of the child agrees with that opinion.
- (3) A child shall commence secondary education on 1st August next after his normal date of commencement where—
- (a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that later date; and
  - (b) the parent of the child agrees with that opinion.
- (4) A child shall commence secondary education on 1st August next before or after his normal date of commencement where—
- (a) <sup>F17</sup>the Authority<sup>F18</sup> ... so directs; and
  - (b) at the time the direction is given the child is not a registered pupil at any school.
- (5) In forming an opinion for the purposes of paragraph (2) or (3) the Board of Governors of a school shall comply with the guidance issued under paragraph (6) and in particular—

---

**Changes to legislation:** *The Education and Libraries (Northern Ireland) Order 1986, Cross Heading: General is up to date with all changes known to be in force on or before 24 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (a) shall take into account such matters or matters of such description as may be specified in such guidance;
  - (b) shall not take into account such matters or matters of such description as may be so specified; and
  - (c) shall follow such administrative procedures as may be so specified.
- (6) The Department shall issue such guidance as it thinks fit as to the exercise by a Board of Governors of its functions under this Article and such guidance shall in particular—
- (a) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (2) or (3) to take into account the advice of the principal of the school (or, in the case of a grammar school providing both primary and secondary education, the teacher in charge of that part of the school in which primary education is provided);
  - (b) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (3) to take into account the advice of <sup>F19</sup>the Authority] ;
  - (c) specify the matters or descriptions of matters which are, or are not, to be taken into account by a Board of Governors in forming an opinion for the purposes of paragraph (2) or (3);
  - (d) specify the administrative procedures to be followed by a Board of Governors in exercising its functions under this Article; and
  - (e) prohibit the delegation by the Board of Governors (notwithstanding anything in the scheme of management of the school) of such functions under this Article as are specified in the guidance.
- (7) The Department shall issue such guidance as it thinks fit as to—
- (a) the exercise by <sup>F17</sup>the Authority] of its functions under paragraph (4); and
  - (b) the giving by <sup>F17</sup>the Authority] of advice for the purposes of paragraph (6)(b).
- (8) The Department shall publish the guidance issued by it under paragraphs (6) and (7) in such manner as it thinks fit.
- (9) In this Article—
- “appropriate Board of Governors”, in relation to a child, means the Board of Governors of the school at which the child is a registered pupil;
- <sup>F20</sup>“deferred case” has the meaning given in Article 46 and paragraph (1B) of that Article applies for the purposes of this Article as it applies for the purposes of that Article;]
- “normal date of commencement”, in relation to a child, means the date on which, but for any provision made under paragraph (2), (3) or (4), the child would commence secondary education;
- <sup>F21</sup> ...
- (10) This Article does not apply in relation to—
- (a) children in respect of whom statements are maintained under Article 16 of the Education (Northern Ireland) Order 1996; or
  - (b) children in independent schools.]

**F13** 1996 NI 1

**F14** Words in art. 46A(1)(a) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 2(1), 4(1)

**F15** Art. 46A(1)(aa) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 2(2), 4(1)

**F16** Words in art. 46A(1)(b) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), ss. 2(3), 4(1)

**Changes to legislation:** *The Education and Libraries (Northern Ireland) Order 1986, Cross Heading: General is up to date with all changes known to be in force on or before 24 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F17** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F18** Words in art. 46A(4)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F19** Words in art. 46A(6)(b) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(10)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F20** Words in art. 46A(9) inserted (28.4.2022) by School Age Act (Northern Ireland) 2022 (c. 21), **ss. 2(4), 4(1)**
- F21** Words in art. 46A(9) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

### ***Presumption as to age***

47. Where in any proceedings under<sup>F22</sup> the Education Orders] other than a prosecution to which paragraph 4 of Schedule 13 applies, the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age and satisfies the court that, having used all reasonable diligence to obtain evidence as to the age of that person, he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over the age alleged.

**F22** 1989 NI 20

### ***Registration of pupils at school***

48.—(1) The proprietor of every school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars with respect to all<sup>F23</sup> pupils attending the school (whether they are registered pupils of the school or not)] and regulations may—

- (a) make provision for enabling the registers so kept to be inspected and extracts taken therefrom for the purposes of<sup>F24</sup> the Education Orders] by persons duly authorised in that behalf under the regulations; and
- (b) require persons by whom registers are so kept to make to the Department and to boards such periodical or other returns as to the contents thereof as may be prescribed.

(2) A person who contravenes the provisions of paragraph (1) or of regulations thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) Regulations may prescribe the procedure by which a child may become a registered pupil at a school and the procedure by which a child may be withdrawn from a school at which he is a registered pupil<sup>F25</sup> . . . .

<sup>F26</sup>(3A) A child registered as a pupil at a school in any school year may not in that year be registered as a pupil at another school unless he is first withdrawn from the school at which he is registered.]

*Para. (4) rep. by 1996 NI 1*

- F23** Words in art. 48(1) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 25**; S.R. 2007/197, **art. 2(a)**
- F24** 1989 NI 20
- F25** 1996 NI 1
- F26** Art. 48(3A) added (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 26**; S.R. 2007/197, **art. 2(a)**

## [<sup>F27</sup>Suspension and expulsion of pupils

49.—(1) Each board shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from [<sup>F28</sup>controlled schools] .

(2) The Council for Catholic Maintained Schools shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from Catholic maintained schools.

(3) The Board of Governors of—

- (a) a voluntary school (other than a Catholic maintained school);
- (b) a grant#maintained integrated school,

shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school.

(4) A scheme prepared under paragraph (1), (2) or (3) shall provide that a pupil may be expelled from a school only by the expelling authority and shall include provision for such other matters as may be prescribed.

(5) In this Article “the expelling authority” means—

- (a) in relation to a pupil in a controlled school, [<sup>F17</sup>the Authority]<sup>F29</sup>...; and
- (b) in relation to a pupil in any other grant-aided school, the Board of Governors of the school.

(6) Every board shall make arrangements for enabling—

- (a) the parent of a pupil at a grant-aided school <sup>F30</sup>...; or
- (b) if the pupil has attained the age of 18 years, the pupil himself,

to appeal against any decision of an expelling authority to expel the pupil from the school.

(7) Any appeal by virtue of paragraph (6) shall be to an appeal tribunal constituted in accordance with regulations under paragraph (10).

(8) On the hearing of an appeal under this Article the appeal tribunal may—

- (a) allow the appeal and direct that the pupil be re#admitted to the school; or
- (b) dismiss the appeal.

(9) It shall be the duty of the expelling authority and, in the case of a pupil expelled from a controlled school, the Board of Governors of the school to comply with any direction given under paragraph (8)(a).

(10) The Department shall by regulations provide for the constitution and procedure of appeal tribunals and, without prejudice to the generality of the foregoing, such regulations—

- (a) shall provide for an appeal tribunal to consist of a prescribed number of persons selected in the prescribed manner from a panel of persons appointed by [<sup>F17</sup>the Authority] to act as members of appeal tribunals under this Article;
- (b) may provide for disqualifying prescribed persons or descriptions of person for membership of an appeal tribunal;
- (c) may contain provision requiring an appeal tribunal to hear and determine an appeal within such period as may be specified in, or determined in accordance with, the regulations;
- (d) may provide for two or more appeal tribunals to sit at the same time;

[ may provide for an appeal tribunal in considering an appeal to have regard in particular <sup>F31</sup>(da) to any matters specified in the regulations;

(db) may provide for appeal tribunals to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;]

- (e) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by [<sup>F17</sup>the Authority] .
- (11) An appeal tribunal shall not be regarded as a committee of [<sup>F17</sup>the Authority] .
- (12) Article 79(1) shall apply to members of an appeal tribunal <sup>F32</sup>....]

- |            |   |
|------------|---|
| <b>F17</b> | Words in Order substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 3 para. 1(1)(a)</b> (with <a href="#">Sch. 2 para. 4(3)</a> , <a href="#">Sch. 3 para. 1(2)</a> ); S.R. 2015/35, art. 2(b) |
| <b>F27</b> | <a href="#">1993 NI 12</a>  |
| <b>F28</b> | Words in art. 49(1) substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 3 para. 9(11)</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)                                  |
| <b>F29</b> | Words in art. 49(5)(a) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)  |
| <b>F30</b> | Words in art. 49(6)(a) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)  |
| <b>F31</b> | <a href="#">2003 NI 12</a>  |
| <b>F32</b> | Words in art. 49(12) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)  |

*Art. 49A rep. by 2003 NI 12*

**Changes to legislation:**

The Education and Libraries (Northern Ireland) Order 1986, Cross Heading: General is up to date with all changes known to be in force on or before 24 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 18 repealed in part by [S.I. 2003/435 \(N.I.\) art. 49\(2\)Sch. 2](#)
- [art.77\(3\)](#) revoked by [S.I. 1996/2967 reg.11\(7\)](#)