
STATUTORY INSTRUMENTS

1993 No. 2810

The Education and Libraries (Northern Ireland) Order 1993

PART IV

MISCELLANEOUS

Amalgamation of institutions of further education

Power of Department to determine that institutions shall be amalgamated

26.—(1) The Department may determine that two or more institutions of further education under the management of a board shall be amalgamated to form a single new institution of further education (in this Part referred to as “the new institution”).

(2) Before issuing any determination under this Article affecting any institutions of further education, the Department shall consult—

- (a) the governing bodies of those institutions;
- (b) the board by which those institutions are managed; and
- (c) such bodies as appear to the Department to be representative of—
 - (i) persons employed by a board to work at those institutions;
 - (ii) students for whom education is provided at those institutions.

(3) A determination under this Article providing for the amalgamation of two or more institutions of further education shall specify the date (referred to in Article 27 as “the implementation date”) on which the amalgamation is to take effect.

(4) For the purposes of this Article and Article 27 an institution of further education is affected by a determination under this Article if, and only if, it is one of the institutions which are to be amalgamated in pursuance of the determination.

(5) References in this Article and Article 27 to an institution of further education include references to a technical secondary school conducted in association with that institution.

Amalgamation in pursuance of determination under Article 26

27.—(1) Where the Department issues a determination under Article 26, it shall be the duty of the board responsible for the management of the institutions of further education affected by the determination to take all such steps as are necessary to give effect to the determination.

(2) In particular, but without prejudice to the generality of paragraph (1), that board shall not later than the implementation date—

- (a) ensure that an instrument of government and articles of government are made for the new institution; and
 - (b) make provision by means of a governing body for the management of the new institution.
- (3) On the implementation date—

- (a) all property, rights and liabilities of the governing bodies of the institutions affected by the determination shall be transferred to, and by virtue of this paragraph vest in, the governing body of the new institution; and
 - (b) the institutions affected by the determination shall cease to exist.
- (4) Any land or other property transferred to the governing body of the new institution under this Article which immediately before the implementation date was held on trust shall vest in that body as trustees on the trusts applicable immediately before that date under any trust deed regulating the use of the land or other property for the purposes of an institution of further education.
- (5) Stamp duty shall not be chargeable in respect of any transfer effected by this Article.
- (6) In Article 103(9) of the 1989 Order at the end there shall be added the following sub-paragraph—
- “(c) in the case of an institution of further education formed in pursuance of a determination under Article 26 of the Education and Libraries (Northern Ireland) Order 1993, the governing bodies of the institutions which are to be amalgamated in pursuance of the determination.”.

Finance

Capital grants to, and management of, maintained schools and voluntary grammar schools

28.—(1) For Article 116 of the 1986 Order there shall be substituted the following Article—

“Building and equipment grants for voluntary schools

116.—(1) Subject to paragraph (2) and to regulations made with the approval of the Department of Finance and Personnel, the Department may pay to any person in respect of approved expenditure—

- (a) incurred for the provision or alteration of the premises of a voluntary school, a sum equal to—
 - (i) that expenditure where, when that expenditure is approved, the school is—
 - (A) a maintained school in relation to which an agreement under paragraph 1 of Schedule 5 is in force; or
 - (B) a voluntary grammar school in relation to which an agreement under paragraph 1(1) (a) of Schedule 6 is in force;
 - (ii) eighty-five per cent. of that expenditure where, when that expenditure is approved, the school is—
 - (A) a maintained school not falling within head (i)(A); or
 - (B) a voluntary grammar school in relation to which an agreement under paragraph 1(1) (b) of Schedule 6 is in force;
 - (iii) sixty-five per cent. of that expenditure in any other case;
- (b) incurred for the provision of equipment provided in connection with the provision or alteration of the premises of a voluntary grammar school, a sum equal to—
 - (i) that expenditure where, when that expenditure is approved, an agreement under paragraph 1(1)(a) of Schedule 6 is in force in relation to the school;
 - (ii) eighty-five per cent. of that expenditure where, when that expenditure is approved, an agreement under paragraph 1(1)(b) of Schedule 6 is in force in relation to the school;

(iii) sixty-five per cent. of that expenditure in any other case;

(c) incurred for the provision of equipment for a voluntary school other than a maintained school or a voluntary grammar school, a sum equal to sixty-five per cent. of that expenditure.

(2) No grant shall be paid under paragraph (1)(a)(iii) to a person in respect of expenditure incurred for the provision or alteration of any premises of a voluntary grammar school other than school meals premises.

(3) In paragraph (2) “schools meals premises” means premises used, or to be used, wholly or mainly for the carrying out of arrangements approved under Article 58(5) or (6).

(4) Where a contract entered into for the provision or alteration of the premises of a school provides for payment by instalments, the date on which an instalment is paid under the contract may, for the purposes of this Article, be taken as the date on which expenditure of the amount of that instalment has been incurred.

(5) For the purposes of this Article, any question as to the date on which any expenditure was incurred or approved shall be determined by the Department.

(6) Regulations under paragraph (1) may make provision for—

(a) the repayment in such circumstances as are prescribed of the whole or part of any grant paid under this Article;

(b) the reduction in such circumstances as are prescribed of the amount of grant which would otherwise be payable under this Article;

(c) the payment to the Department by such person as may be prescribed of a sum where—

(i) any premises of a school in respect of which the Department has, at any time after 8th. August 1978, paid a grant under paragraph (1)(a), cease to be used for approved purposes of a grant-aided school; or

(ii) any site in respect of which the Department has, at any time after that date, paid a grant under paragraph (1)(a), ceases, in the opinion of the Department, to be required for the purposes of a grant-aided school.

(7) Without prejudice to the generality of paragraph (6), regulations under paragraph (1) may—

(a) provide for any repayment, reduction or payment under the regulations to be of such amount as the Department considers equitable;

(b) provide for any such repayment, reduction or payment not to exceed such amount as may be determined under or in accordance with the regulations;

(c) provide for any amount determined as mentioned in sub-paragraph (b) to include an amount in respect of interest calculated in such manner as may be prescribed; and

(d) apply to grants made before as well as after the coming into operation of Article 28 of the Education and Libraries (Northern Ireland) Order 1993.”.

(2) For Article 11 of the 1986 Order (management of voluntary schools) there shall be substituted the Article set out in Part I of Schedule 2.

(3) For Schedule 5 to the 1986 Order (management of maintained schools) there shall be substituted the Schedule set out in Part II of Schedule 2.

(4) For Schedule 6 to the 1986 Order (management of certain voluntary grammar schools) there shall be substituted the Schedule set out in Part III of Schedule 2.

(5) Where an agreement under paragraph 1 of Schedule 5 to the 1986 Order or paragraph 1(1)(a) of Schedule 6 to that Order comes into force in relation to a school at any time before the expiration

of 3 months from the day on which this Article comes into operation, paragraph (1) of Article 116 of that Order shall have effect, in relation to any expenditure of a description mentioned in that paragraph which is approved in connection with the school in the period beginning on 4th November 1992 and ending on the coming into force of that agreement, as if that agreement had been in force when the expenditure was approved.

(6) Paragraph (5) does not apply to expenditure incurred under, or in connection with, a contract for the provision or alteration of the premises of a school or the provision of equipment for a school if any part of the expenditure under, or in connection with, that contract was approved before 4th November 1992.

(7) Any agreement in force immediately before the coming into operation of this Article in relation to a school under Schedule 6 to the 1986 Order shall—

- (a) if made, or having effect as if made, under paragraph 1(1) of that Schedule, continue to have effect as if made under paragraph 1(1)(b) of that Schedule, as substituted by this Article;
- (b) if made, or having effect as if made, under paragraph 1(2) of that Schedule, continue to have effect as if made under paragraph 2(1) of that Schedule, as substituted by this Article.

Grants to boards and other bodies

29.—(1) In Article 113 of the 1986 Order (financial schemes of boards)—

- (a) in paragraph (1) the words “under the Education Orders” shall cease to have effect;
- (b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) For the purposes of a financial scheme under this Article in relation to any period (“the new period”), any moneys received by a board in a previous period and not spent by it before the beginning of the new period shall be treated as receipts of the board in the new period.”;
- (c) in paragraph (3) after the word “expenditure” there shall be inserted the words “in any period” and after the word “approved” shall be inserted the words “in relation to that period”.

(2) In Article 114 of the 1986 Order (grants to boards) after the word “incurred” there shall be inserted the words “or to be incurred”.

Funding by Department of higher education

30.—(1) The Department may, on such terms and conditions as it may determine, make grants—

- (a) to the governing body of any higher education institution in Northern Ireland in respect of expenditure incurred or to be incurred by it for the purposes of—
 - (i) the provision of education and the undertaking of research by that institution; or
 - (ii) the provision of any facilities, and the carrying on of any other activities, by that institution which the governing body of that institution considers it necessary or desirable to provide or carry on for the purposes of, or in connection with, education or research;
- (b) to the governing body of any other prescribed institution in respect of expenditure incurred or to be incurred by it for the purposes of the provision of prescribed higher education courses;
- (c) to any body or person in respect of expenditure incurred or to be incurred by that body or person for the purposes of the provision of services for the purposes of, or in connection

with, the provision of education and the undertaking of research by higher education institutions in Northern Ireland.

(2) For the purposes of the exercise of its functions under this Article, the Department may obtain such advice and other services as it considers necessary or desirable from any other body or person on such terms and conditions as may be agreed between the Department and that other body or person.

(3) In this Article—

“governing body”, in relation to an institution means—

- (a) in the case of a university, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs;
- (b) in the case of an institution of further education, the governing body constituted under Part VII of the 1989 Order;
- (c) in the case of any other institution, the body which has responsibility for the conduct of its affairs;

“higher education course” means a course of a description for the time being mentioned in Schedule 7 to the 1989 Order;

“higher education institution” means—

- (a) a university; and
- (b) any other institution which provides higher education courses and is designated by regulations as a higher education institution for the purposes of this Article;

and references to a higher education institution in Northern Ireland include references to the Open University;

“university” includes a university college and any college, or institution in the nature of a college, in a university.

(4) Regulations under this Article shall be subject to negative resolution.

Premature retirement compensation costs

31.—(1) After Article 53 of the 1989 Order there shall be inserted the following Article—

“Premature retirement compensation costs

53A.—(1) This Article applies in any financial year if—

- (a) in the case of any board, the board’s financial provision for relevant schools is subject to regulation by a scheme; and
- (b) in accordance with that scheme, premature retirement compensation costs of the board in relation to members of the staff of relevant schools are not included in the board’s aggregated budget for that year.

(2) Premature retirement compensation costs of a board in relation to a member of the staff of a relevant school shall not be met from the budget share of that school, except in pursuance of, and in accordance with the terms of, a direction under paragraph (3).

(3) Where there appears to a board to be good reason to do so in relation to any school, the board may direct that—

- (a) a specified amount shall be deducted from the budget share of the school in any single specified financial year; or
- (b) a specified amount shall be deducted from the budget share of the school in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the board in relation to a member of the staff of the school.

(4) In paragraph (3) “specified” means specified in directions under that paragraph.

(5) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount to be deducted from the budget share of a school in pursuance of a direction given under paragraph (3) in relation to a member of the staff of a school shall not exceed such amount as appears to the board to represent the cost, capitalised as of the date on which the direction is given, of discharging the board’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(6) Where in pursuance of a direction under paragraph (3) an amount falls to be deducted from a school’s budget share at a time when the school does not have a delegated budget, that amount shall not be deducted from any sum made available out of that budget to the Board of Governors under Article 51.

(7) Sub-paragraph (5) of paragraph 7 of Schedule 4 applies for the purposes of paragraph (3) of this Article as it applies for the purposes of sub-paragraph (4) of that paragraph.

(8) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991⁽¹⁾;

“premature retirement compensation costs of a board”, in relation to any person, means the costs incurred or to be incurred by the board in paying premature retirement compensation to, or in respect of, that person.”.

(2) In Article 60 of the 1989 Order at the beginning of paragraph (3) there shall be inserted the words “Subject to paragraph (7A),” and after paragraph (7) there shall be inserted the following paragraphs—

“(7A) An amount may, in pursuance of, and in accordance with the terms of, a direction under paragraph (7B), be deducted from the amount of any grant to be paid under this Article to the Board of Governors of any school.

(7B) Where there appears to the Department to be good reason to do so in relation to any school, the Department may direct that—

- (a) a specified amount shall be deducted from the amount of any grant to be paid under this Article to the Board of Governors of the school in any single specified financial year; or
- (b) a specified amount shall be deducted from the amount of any such grant to be so paid in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to a member of the staff of the school.

(7C) In paragraph (7B) “specified” means specified in directions under that paragraph.

(7D) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount to be deducted in pursuance of a direction given under paragraph (7B) in relation to a member of the staff of a school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(1) SR 1991 No. 132

(7E) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(2);

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.”.

(3) In Article 77 of the 1989 Order at the beginning of paragraph (2) there shall be inserted the words “Subject to paragraph (7),” and for paragraph (7) there shall be substituted the following paragraphs—

“(7) An amount may, in pursuance of, and in accordance with the terms of, a direction under paragraph (7A), be deducted from the amount of any maintenance grant to be paid under this Article to the Board of Governors of any school.

(7A) Where there appears to the Department to be good reason to do so in relation to any school, the Department may direct that—

(a) a specified amount shall be deducted from the amount of any maintenance grant to be paid under this Article to the Board of Governors of the school in any single specified financial year; or

(b) a specified amount shall be deducted from the amount of any maintenance grant to be so paid in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to a member of the staff of the school.

(7B) In paragraph (7A) “specified” means specified in directions under that paragraph.

(7C) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount to be deducted in pursuance of a direction given under paragraph (7A) in relation to a member of the staff of a school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department's liability to pay premature retirement compensation to, or in respect of, that member of staff.

(7D) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(3);

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.”.

(4) After Article 115 of the 1989 Order there shall be inserted the following Article—

“Premature retirement compensation costs

115A.—(1) This Article applies in any financial year if—

(2) SR 1991 No. 132

(3) SR 1991 No. 132

- (a) in the case of any board, the board's financial provision for institutions of further education under its management is subject to regulation by a scheme; and
- (b) amounts to meet premature retirement compensation costs of the board in relation to members of the staff of such institutions are not appropriated by the board for allocation in accordance with that scheme among institutions covered by the scheme.

(2) Premature retirement compensation costs of a board in relation to a member of the staff of an institution of further education covered by the scheme shall not be met from the budget share of that institution, except in pursuance of, and in accordance with the terms of, a direction under paragraph (3).

(3) Where there appears to a board to be good reason to do so in relation to any institution of further education, the board may direct that—

- (a) a specified amount shall be deducted from the budget share of the institution in any single specified financial year; or
- (b) a specified amount shall be deducted from the budget share of the institution in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the board in relation to a member of the staff of the institution.

(4) In paragraph (3) "specified" means specified in directions under that paragraph.

(5) The amount or (in a case falling within sub-paragraph (b) of that paragraph), the total amount to be deducted from the budget share of an institution of further education in pursuance of a direction given under paragraph (3) in relation to a member of the staff of an institution shall not exceed such amount as appears to the board to represent the cost, capitalised as of the date on which the direction is given, of discharging the board's liability to pay premature retirement compensation to, or in respect of, that member of staff.

(6) The fact that a board has a policy precluding dismissal of its employees by reason of redundancy is not to be regarded as a good reason for the purposes of paragraph (3).

(7) In this Article—

"member of staff" includes former member of staff;

"premature retirement compensation" means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(4);

"premature retirement compensation costs of the board", in relation to any person, means the costs incurred or to be incurred by the board in paying premature retirement compensation to, or in respect of, that person."

(5) After Article 119 of the 1986 Order there shall be inserted the following Article—

"Recovery by Department of certain premature retirement compensation costs

119A.—(1) Where the Department becomes liable to pay premature retirement compensation in relation to a member of the staff of a special school, the Department may, where there appears to the Department to be good reason to do so, direct that—

- (a) a specified amount shall be charged to the responsible board in any single specified financial year; or
- (b) a specified amount shall be charged to the responsible board in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that member of staff.

(2) In paragraph (1)—

“responsible board” means—

- (a) in relation to a member of the staff of a controlled school, the board responsible for the management of the school;
- (b) in relation to a member of the staff of a maintained school, the board by which the school is maintained;

“specified” means specified in directions under that paragraph.

(3) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount charged to a board in pursuance of a direction given under paragraph (1) in relation to a member of the staff of a special school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(4) Where a board becomes liable to pay premature retirement compensation in relation to a member of the staff of—

- (a) a controlled school which does not have a delegated budget under Part V of the 1989 Order; or
- (b) an institution of further education which does not have a delegated budget under Part VII of that Order,

the Department may, where there appears to the Department to be good reason to do so, direct that—

- (i) a specified amount shall be charged to that board in any single specified financial year; or
- (ii) a specified amount shall be charged to the board in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the board in relation to that member of staff.

(5) In paragraph (4) “specified” means specified in directions under that paragraph.

(6) For the purposes of paragraph (4)—

- (a) a controlled school does not have a delegated budget during any period when the right of the Board of Governors of that school to such a budget is suspended under Article 53 of the 1989 Order;
- (b) an institution of further education does not have a delegated budget during any period when the right of the governing body of that institution to such a budget is subject to any suspension, limitation or restriction under Article 117 of that Order.

(7) The amount or (in a case falling within sub-paragraph (ii) of that paragraph) the total amount charged to a board in pursuance of a direction given under paragraph (4) in relation to a member of the staff of a school or institution of further education shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the board’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(8) Where the Department becomes liable to pay premature retirement compensation in relation to a person employed otherwise than at a grant-aided school or institution of further

education, the Department may, where there appears to the Department to be good reason to do so, direct that—

- (a) a specified amount shall be charged to the employer of that person in any single specified financial year; or
- (b) a specified amount shall be charged to the employer of that person in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that employee.

(9) In paragraph (8) “specified” means specified in directions under that paragraph.

(10) The amount or (in a case falling within sub-paragraph (b) of that paragraph), the total amount charged to an employer in pursuance of a direction given under paragraph (8) in relation to an employee shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that employee.

(11) Any amount charged by the Department to a board or an employer under this Article in any financial year shall be payable by the board or employer to the Department at such time or times and in such manner as the Department may direct.

(12) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(5);

“premature retirement compensation costs of the board”, in relation to any person, means the costs incurred or to be incurred by the board in paying premature retirement compensation to, or in respect of, that person;

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.”.

Commercial activities

Power of certain bodies to undertake commercial activities

32.—(1) Subject to the following provisions of this Article, a relevant body shall have power, with the approval of the Department, to undertake commercial activities which, apart from this Article, it would not have power to undertake.

(2) An approval granted to a relevant body under this Article—

- (a) shall specify the particular commercial activities which the body has power to undertake under this Article in pursuance of the approval;
- (b) shall be subject to the general conditions for the time being specified in directions under paragraph (3); and
- (c) shall be subject to such other conditions as may be specified by the Department in the approval.

(3) The Department shall issue directions specifying the general conditions regulating the undertaking by a relevant body of commercial activities in pursuance of an approval under this Article.

(4) The Department shall consult all relevant bodies before issuing any directions under paragraph (3).

(5) Subject to any conditions applying under this Article, a relevant body shall have power—

- (a) to do anything whatsoever which appears to the body to be calculated to facilitate, or to be conducive or incidental to, the exercise of any power conferred under this Article; and
- (b) to make such charge as the body considers appropriate for anything that it does in the exercise of any such power and to calculate any such charge on any basis that it considers to be the appropriate commercial basis.

(6) Nothing in this Article authorises a relevant body—

- (a) to undertake any commercial activities which are detrimental to—
 - (i) the performance by that body of any duty imposed on it by the Education Orders; or
 - (ii) the interests of pupils or persons seeking to be provided with education under the Education Orders; or
- (b) to disregard any statutory provision or rule of law or to override any person's contractual or property rights.

(7) Where it appears to the Department that a relevant body—

- (a) has failed to comply with any conditions subject to which an approval under this Article has been granted; or
- (b) has in undertaking any commercial activity in pursuance of such an approval contravened paragraph (6),

the Department may, by notice served on that body,—

- (i) revoke the approval; or
- (ii) modify the approval, whether by modifying the particular commercial activities or any conditions specified therein.

(8) The revocation or modification of an approval under this Article shall not affect the power of a relevant body to meet any contractual commitments outstanding at the date on which the notice under paragraph (7) is served on the body.

(9) Any approval, directions or notice under this Article shall be in writing.

(10) In this Article—

“commercial activity” includes—

- (a) the carrying out of work for any other body or person;
- (b) the supplying of goods and services to any other body or person; and
- (c) the developing and exploiting of ideas and the exploiting of intellectual property;

“relevant body” means—

- (a) a board; or
- (b) the Northern Ireland Council for the Curriculum, Examinations and Assessment.

(11) Until the coming into operation of Article 34, paragraph (10) shall have effect with the substitution for paragraph (b) of the definition of relevant body of the following paragraph—

“(b) the Northern Ireland Curriculum Council.”.

Formation of companies in connection with institutions of further education

33. After Article 119 of the 1989 Order there shall be inserted the following Article—

“Formation of companies for purposes of Article 119(1)

119A.—(1) The governing body of an institution of further education which has a delegated budget may, in the exercise of its powers under Article 119(1), form companies under the Companies (Northern Ireland) Order 1986(6).

(2) Subject to paragraphs (3) and (4), the board responsible for the management of an institution of further education may make loans to any company formed under this Article by the governing body of that institution.

(3) Loans made under this Article shall carry interest at a rate not less than a rate determined by the Department with the consent of the Department of Finance and Personnel, and—

- (a) different rates may be so determined in respect of different categories of loans;
- (b) a rate may be determined by reference to a rate—
 - (i) specified by or under any other statutory provision; or
 - (ii) ascertainable by such other means as the Department may with the consent of the Department of Finance and Personnel, specify.

(4) Before determining a rate under paragraph (3), the Department shall consult any boards and other bodies with which consultation appears to the Department to be desirable.

(5) The accounts kept by a board under Article 119 of the 1986 Order shall include a separate account of any loans made and repayments of principal or interest received by that board under this Article.”.

The Northern Ireland Council for the Curriculum, Examinations and Assessment

The Northern Ireland Council for the Curriculum, Examinations and Assessment

34.—(1) After Article 17 of the 1989 Order there shall be inserted the following cross-heading and Article—

“The Northern Ireland Council for the Curriculum, Examinations and Assessment

The Northern Ireland Council for the Curriculum, Examinations and Assessment

17A.—(1) There shall be established a body to be known as the Northern Ireland Council for the Curriculum, Examinations and Assessment (in this Article and Articles 19 to 26 referred to as “the Council”).

(2) Schedule 3 shall have effect with respect to the Council.”.

(2) The following bodies are hereby abolished, namely—

- (a) the Northern Ireland Curriculum Council; and
- (b) the Northern Ireland Schools Examinations and Assessment Council,

and the functions exercisable by each of those bodies immediately before the appointed day shall as from that day be exercisable by the new Council.

(3) On the appointed day all property, rights and liabilities to which a former body is entitled or subject immediately before that day shall be transferred to, and by virtue of this Order vest in, the new Council.

(4) Paragraph (3) does not apply to rights and liabilities under a contract of employment, but paragraph (5) applies to any person who immediately before the appointed day is employed by a former body.

(5) The contract of employment between a person to whom this paragraph applies and the former body shall have effect from the appointed day as if originally made between him and the new Council.

(6) Without prejudice to paragraph (5)—

(a) all the former body's rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of that paragraph be transferred to the new Council on the appointed day; and

(b) anything done before that day by or in relation to the former body in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the new Council.

(7) Paragraphs (5) and (6) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by paragraph (5).

(8) Stamp duty shall not be chargeable in respect of any transfer effected by this Article.

(9) In consequence of the preceding provisions of this Article—

(a) the statutory provisions set out in Part I of Schedule 4 shall have effect subject to the amendments specified in that Part; and

(b) any reference in any other statutory provision or any other document passed or made before the appointed day to a former body shall, so far as may be necessary for the purposes of this Article, be construed as a reference to the new Council.

(10) In this Article—

“the appointed day” means the day appointed for the coming into operation of this Article;

“former body” means a body abolished by paragraph (2);

“the new Council” means the Northern Ireland Council for the Curriculum, Examinations and Assessment established under Article 17A of the 1989 Order (as inserted by paragraph (1)).

Schools established in hospitals

Schools established in hospitals

35.—(1) The 1989 Order shall have effect subject to the amendments in paragraphs (2) to (8) which exempt schools established in hospitals from certain provisions of that Order.

(2) In Part III (the curriculum) in Article 35 after paragraph (6) there shall be inserted the following paragraph—

“(6A) Nothing in this Part, except Articles 29, 30 and 32 and Article 33 in so far as it applies for the purposes of those Articles, shall apply in relation to a school established in a hospital.”.

(3) In Part IV (admission of children to grant-aided schools) in Article 43 (exceptions) at the end there shall be added the following paragraph—

“(5) None of the provisions of Articles 36 to 42 have effect in relation to a school established in a hospital.”.

(4) In Part V (financing of schools) in Article 46(3)(a) (schools covered by a scheme) for the words “other than a special school or” there shall be substituted the words “other than a special school, a school established in a hospital or”.

(5) In Articles 68(2) and 90(2) (schools not eligible for grant-maintained integrated status and controlled integrated status, respectively) at the end there shall be added the following sub-paragraph—

“(d) a school established in a hospital.”

(6) The following paragraph, namely—

“() () This Article does not apply to a school established in a hospital.”

shall be added—

(a) in Article 124 (discipline in schools), as paragraph (4);

(b) in Article 125 (annual report of Board of Governors), as paragraph (7);

(c) in Article 126 (annual parents' meeting), as paragraph (8).

(7) In Article 127 (application of provisions regulating charges in schools) in paragraph (1) after the words “paragraphs (2) to (5)” there shall be inserted the words “and Article 137(7)” and at the end of Article 137 there shall be added the following paragraph—

“(7) Nothing in this Chapter shall apply in relation to a school established in a hospital; but no charge shall be made in respect of admission to, or education or equipment provided to a pupil at, any such school.”

(8) In Article 139(8) (schools ineligible to become community schools) for the words from “a voluntary school” to the end there shall be substituted the words “a school established in a hospital.”

(9) In Article 13 of the 1986 Order (Boards of Governors)—

(a) after paragraph (3A) there shall be inserted the following paragraph—

“(3AA) Where in the opinion of the board responsible for the management of a school established in a hospital it is likely to be impracticable for there to be elections of parent members at the school, the required number of parent members may be made up by persons appointed by the voting members of the Board of Governors of the school.”;

(b) in paragraphs (3B), (3C) and (3D) after the words “paragraph (3A)” there shall be inserted the words “or (3AA)”;

(c) in paragraph (3E) after the words “paragraph (3A)” there shall be inserted “, (3AA)”.

(10) After Article 131 of the 1986 Order there shall be inserted the following Article—

“Exceptions for schools established in hospitals

131A.—(1) The provisions of this Order listed in paragraph (2) shall not apply in relation to a school established in a hospital.

(2) The provisions referred to in paragraph (1) are Articles 18, 21, 22, 48, 49, 58, 60 and 61.”.

Miscellaneous amendments to the 1986 Order

Provision by boards of education otherwise than at a school

36. In Article 6 of the 1986 Order—

- (a) in paragraph (3) (power of board, with the approval of the Department, to arrange for the provision of education otherwise than at a school) for the words “may, with the approval of the Department,” there shall be substituted the word “shall”; and
- (b) in paragraph (4) (power of board, with the approval of the Department, to arrange for special educational provision to be made otherwise than at a school) the words “with the approval of the Department and” shall cease to have effect.

Limitation on membership of Boards of Governors

37. For Article 12 of the 1986 Order there shall be substituted the following Article—

“Limitation on membership of Boards of Governors

12. Except with the approval of the Department, no person shall at the same time hold office as a member of more than three Boards of Governors of grant-aided schools.”.

Standard of school premises

38. For Article 18 of the 1986 Order there shall be substituted the following Article—

“Standard of school premises

18.—(1) The Department shall issue directions specifying the standards to which premises of grant-aided schools shall conform.

(2) Subject to paragraph (3), it shall be the duty of—

- (a) the board responsible for the management of a controlled school;
- (b) the Board of Governors of a grant-maintained integrated school; and
- (c) the trustees of a voluntary school,

to secure that the premises of the school conform to the standards specified under this Article for schools of the description to which the school belongs.

(3) Where the Department is satisfied that it would be unreasonable to expect the premises of a particular school to conform to the standards specified under this Article, it may exempt the school premises from conforming with such standards to such extent and for such time as it thinks appropriate.

(4) Directions given under this Article by the Department—

- (a) shall be given in writing; and
- (b) shall be published by the Department in such manner as it thinks fit.”.

Appeals against expulsion of pupils

39. For Article 49 of the 1986 Order there shall be substituted the following Article—

“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 schools under its management.

(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, the board responsible for the management of the school; 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 situated in the area of the board; 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 the board 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;
- (e) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the board.

(11) An appeal tribunal shall not be regarded as a committee of the board.

(12) Article 79(1) shall apply to members of an appeal tribunal in like manner as it applies to members of a board.”.

Work experience for school children

40. In Article 63(2) of the 1986 Order (employment of children for purposes of work experience) for the words from “only from the following dates—” to the end there shall be substituted the words

“only at a time on or after the date on which the summer term begins at his school in the year immediately preceding the year in which he ceases to be of compulsory school age”.

Supply teachers

- 41.** The following provisions shall cease to have effect, namely—
- (a) Article 65(2)(b) of the 1986 Order (power of board to employ supply teachers); and
 - (b) Article 143(1)(b) of the 1989 Order (power of Council for Catholic Maintained Schools to employ supply teachers).

Salaries and other terms and conditions of employment of teachers

- 42.—**(1) In the 1986 Order for Article 69 there shall be substituted the following Article—

“Salaries and other terms and conditions of employment of teachers

- 69.—**(1) Except as provided by paragraph (3)—

- (a) the rates of salaries and the allowances which are to be paid to teachers to whom this Article applies; and
- (b) the other terms and conditions of employment of such teachers,

shall be determined by the Department.

- (2) This Article applies to—

- (a) teachers employed in grant-aided schools;
- (b) teachers employed in institutions of further education; and
- (c) peripatetic teachers.

(3) In such circumstances and subject to such conditions as the Department may direct, the rates of salaries and the allowances which are to be paid to teachers of a class or description specified by the Department in the directions shall be determined by a body or person so specified.

- (4) Before giving any directions under paragraph (3), the Department shall consult—

- (a) such representatives of employing authorities and such representatives of teachers as appear to it to be concerned; and
- (b) any other person with whom consultation appears to it to be desirable.

- (5) In paragraph (4) “employing authority” means—

- (a) in relation to teachers employed in controlled schools and institutions of further education, the board by which they are employed;
- (b) in relation to teachers employed by the Council for Catholic Maintained Schools, that Council;
- (c) in relation to teachers employed in a voluntary school (other than a Catholic maintained school), the Board of Governors of that school;
- (d) in relation to teachers employed in a grant-maintained integrated school, the Board of Governors of the school;
- (e) in relation to peripatetic teachers, the board by which they are employed.

- (6) A determination under paragraph (1) or (3)—

- (a) shall be made in writing;

- (b) shall be published in such manner as the Department or, as the case may be, the body or person making the determination thinks fit;
- (c) may contain such transitional and supplementary provisions as the Department or, as the case may be, that body or person thinks fit; and
- (d) may have effect from a date earlier than the date on which it is made.

(7) Where any question arises as to the rate of salary or allowance to be paid under this Article to a teacher—

- (a) where that rate of salary or allowance falls in accordance with directions under paragraph (3) to be determined by a body or person specified in those directions, the decision of that body or person shall, except on a question of law, be final;
- (b) in any other case, the decision of the Department shall, except on a question of law, be final.

(8) The terms and conditions upon which a teacher (other than a temporary or part-time teacher) is employed shall be set out in an agreement entered into between the teacher and the employer and the agreement shall be in such form as may be approved by the Department.”.

(2) In Article 70 of the 1986 Order the following provisions (which relate to terms and conditions of employment of teachers and are superseded by paragraph (1)) shall cease to have effect, namely—

- (a) paragraph (1)(b);
- (b) paragraph (3).

(3) Subject to paragraph (4), any regulations which—

- (a) were made under Article 69 or 70(1)(b) of the 1986 Order; and
- (b) were in operation immediately before the coming into operation of this Article,

shall, in so far as they relate to teachers to whom Article 69 of the 1986 Order (as substituted by paragraph (1)) applies, have effect as from the coming into operation of this Article as if they were determinations made by the Department under Article 69(1) of the 1986 Order (as so substituted).

(4) Any provisions included in any regulations mentioned in paragraph (3) by virtue of Article 69(3) of the 1986 Order shall, in so far as they relate to teachers so mentioned, have effect as from the coming into operation of this Article as if they were directions given by the Department under Article 69(3) of the 1986 Order (as substituted by paragraph (1)).

(5) Until the day appointed for the coming into operation of Article 41, Article 69 of the 1986 Order (as substituted by paragraph (1)) shall apply to supply teachers as it applies to the teachers listed in paragraph (2) of that Article; and for the purposes of paragraph (4) of that Article as so applying the “employing authority” in relation to supply teachers means the body by which they are employed.

Charges for library services

43.—(1) For Article 77 of the 1986 Order there shall be substituted the following Article—

“Charges for library services

77.—(1) Except as provided by this Article, no charge shall be made by a board for library services provided by it.

(2) A board may make a charge—

- (a) subject to paragraph (3), for lending library material or library apparatus;
- (b) for reserving for any person library material or library apparatus (whether that material or apparatus is for the time being held by the board or is to be obtained from

- elsewhere and whether for the purpose of lending the material or apparatus to that person or making it available for his use on library premises) and for notifying that person that that material or apparatus has become available or is not available for borrowing or use by him;
- (c) in respect of the failure to return any borrowed library material or library apparatus before the end of the period for which it is lent;
 - (d) subject to paragraph (4), for making library apparatus available for use on library premises;
 - (e) in respect of library apparatus, library material and any other equipment or thing used in providing the library service which is lost, damaged or destroyed by, or while on loan to, any person;
 - (f) subject to paragraph (4), for assisting or instructing a person in the use of a computer;
 - (g) for researching or collating information for and at the request of a person;
 - (h) for supplying catalogues, indexes or similar articles where the articles become the property of the person to whom they are supplied;
 - (i) for supplying library material which has been researched, collated, produced or copied by the board where the material becomes the property of the person to whom it is supplied;
 - (j) for supplying copies of library material obtained from another library not maintained by the board or from any other body or person, where the copies become the property of the person to whom they are supplied;
 - (k) for providing, or procuring the provision of, library material to a person who does not wish to collect it or have it collected and for notifying a person who has requested provision other than by collection that the library material is not available;
 - (l) for providing a room or cubicle on library premises for the purpose of working or studying to which only the person paying the charge is for the time being permitted access;
 - (m) subject to paragraph (5), for making library facilities available otherwise than on library premises; and
 - (n) subject to paragraphs (3) and (4), for making available to any person library facilities which go beyond those ordinarily provided by the board as part of the library service.
- (3) No charge shall be made under sub-paragraph (a) or (n) of paragraph (2) for lending any written material to any person where—
- (a) it is the duty of the board under Article 73(1) to provide a library service to that person;
 - (b) the material is lent in the course of providing such a service to that person on any library premises;
 - (c) the material is lent in a form in which it is readable without the use of any electronic or other apparatus; and
 - (d) that person is not a person who has required any such apparatus to be used, or made available to him, for putting the material into such a form in order that he may borrow it.
- (4) No charge shall be made under sub-paragraph (d), (f) or (n) of paragraph (2) for making facilities available for any person—
- (a) to read the whole or any part of any of the written materials for the time being held by the board—

- (i) in a form in which they are readable without the use of any electronic or other apparatus; or
- (ii) in microform; or
- (b) to consult such catalogues, indexes or similar articles as are maintained, in any form whatever, exclusively for the purposes of that board's library service, on library premises.

(5) No charge shall be made under sub-paragraph (m) of paragraph (2) to individual users of facilities made available as mentioned in that sub-paragraph where—

- (a) the facilities are made available at a school, residential home, hospital, prison, club or like institution; and
- (b) the person who has arranged with the board for the facilities to be made available at such institution is charged under that sub-paragraph.

(6) The Department may, by order subject to affirmative resolution, amend paragraphs (2) to (5).

(7) Subject to paragraph (8), any charge made under this Article shall be of such amount as the board may determine and, without prejudice to the generality of the foregoing, the board may—

- (a) make different provision for different cases including different provision in relation to different persons, circumstances or localities; and
- (b) make charges in respect of each use of the library facilities made available by it, or charge an annual subscription or a deposit in respect of all or some of such facilities.

(8) A board shall not make a charge under this Article to a person living or working or undertaking a course of study outside the area of the board if it would not be entitled in the circumstances to make the same charge to a person living or working or undertaking a course of study within that area.

(9) A board which makes a charge under this Article shall display in a conspicuous place within each library premises of the board a notice specifying the library facilities made available by the board for which it makes a charge and, in the case of each such facility, the amount of the charge or the basis on which the charge will be calculated.

(10) The provisions of Part I of the 1988 Act (copyright) relating to the rental of copies of sound recordings, films and computer programs apply to any lending by a board of copies of such works, whether or not a charge is made for that facility.

(11) In this Article—

“the 1988 Act” means the Copyright, Designs and Patents Act 1988(7);

“computer” means any device for storing and processing information;

“copying” and “copies” shall be construed in accordance with section 17 of the 1988 Act;

“library apparatus” means electronic or other apparatus intended for use with library material;

“residential home” means a residential care home or nursing home registered under the Registered Homes (Northern Ireland) Order 1992(8) or any residential accommodation provided by a Health and Social Services Board or a Health and Social Services Trust;

“written material” means—

- (a) any book, journal, pamphlet or other similar article; or

(7) 1988 c. 48

(8) 1992 NI 20

- (b) any reprographic copy (within the meaning of the 1988 Act) of any article falling within paragraph (a) or any other reproduction of such an article made by any means whatsoever.”.
- (2) In Part VII of the 1986 Order after Article 78 there shall be inserted the following Article—

“Interpretation of Part VII

78A. In this Part—

“library material” means—

- (a) words, figures, images, sounds or data recorded in or on any medium;
- (b) toys; and
- (c) educational artefacts;

“library premises” means—

- (a) any premises which are occupied by a board and are premises where library facilities are made available by the board, in the course of the provision of a library service, to members of the public;
- (b) any vehicle which is used by a board for the purpose of providing such a service and is a vehicle in which facilities are so made available.”.

Insurance by boards

44. Article 86 of the 1986 Order (insurance by boards) shall be renumbered as paragraph (1) of that Article and after that paragraph there shall be added the following paragraphs—

“(2) A board may insure, or meet the cost of insuring, against such risks in connection with any of the functions to which this paragraph applies as the board considers necessary.

(3) Paragraph (2) applies to the functions of—

- (a) the Board of Governors of a grant-aided school, other than a voluntary grammar school or a grant-maintained integrated school; and
- (b) the governing body of an institution of further education,

and so applies whether or not those functions are carried out on behalf of, and in the name of, the board.”.

Miscellaneous amendments to the 1989 Order

Compulsory contributory subjects in key stage 4

45.—(1) In Article 6 (compulsory contributory subjects) of the 1989 Order—

- (a) in paragraph (2)(c) at the end there shall be added the words “(read with Schedule 2A)”;
- (b) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) Schedule 2A sets out the lists of subjects or combinations of subjects referred to in column 4 of Schedule 2.

(2B) In Schedule 2A a reference to a subject followed by “(SC)” is a reference to that subject taught as a short course and any other reference in that Schedule to that subject is a reference to that subject taught as a full course.”;

- (c) for paragraph (5) there shall be substituted the following paragraph—

“(5) In paragraph (2B) “full course” means a course of such content as to prepare pupils in key stage 4 for examination for the Northern Ireland General Certificate of Secondary Education or for examination at an equivalent standard and “short course” means a course of any lesser content.”;

(d) in paragraph (6) at the end there shall be added the words “and Schedule 2A”.

(2) In Article 7 of the 1989 Order after paragraph (1) there shall be inserted the following paragraphs—

“(1A) An order under paragraph (1) in relation to a compulsory contributory subject which may be taught as a short course shall specify separate attainment targets, programmes of study or assessment arrangements (as the case may be) for that subject taught as a short course and for that subject taught as a full course.

(1B) Nothing in paragraph (1A) shall be construed as restricting any power of the Department under paragraph (1) to prescribe different attainment targets, programmes of study or assessment arrangements for a compulsory contributory subject in relation to different pupils in the same key stage.

(1C) In paragraph (1A) “full course” and “short course” have the same meanings as in Article 6(5).”.

(3) In Schedule 2 to the 1989 Order—

(a) “(A)” shall be omitted where it occurs after any entry in column 2, 3 or 4;

(b) the Note at the end of the Schedule shall be omitted;

(c) in column 4 for the entry “Technology and Design” there shall be substituted the following entry—

“One of the subjects from the list set out in paragraph 1 of Schedule 2A”;

(d) in column 4 for the entry “History or Geography” there shall be substituted the following entry—

“One of the subjects or combinations of subjects from the list set out in paragraph 2 of Schedule 2A”;

(e) in column 4 for the entry “Art and Design or Music or Drama” there shall be substituted the following entry—

“One of the subjects from the list set out in paragraph 3 of Schedule 2A”.

(4) After Schedule 2 to the 1989 Order there shall be inserted the Schedule set out in Schedule 3.

Courses leading to external qualifications

46.—(1) In Article 9 of the 1989 Order (approval of Department required for courses of study leading to external qualification) in paragraph (1) for the words “leading to a qualification authenticated by an outside person” there shall be substituted the words “to which this Article applies” and after that paragraph there shall be inserted the following paragraph—

“(1A) This Article applies to a course of study if—

(a) the course is in a listed contributory subject in relation to which attainment targets and programmes of study are specified under Article 7(1)(a); and

(b) the course leads to a qualification authenticated by an outside person.”.

(2) In Article 21(2)(a), (b) and (c) of the 1989 Order (arrangements for certain examinations) the words “and approved by the Department under Article 9” shall cease to have effect.

(3) In Article 34(1) of the 1989 Order (power to apply Articles 9 and 11(1)(d) to senior pupils) after the words “Articles 9” there shall be inserted the words “(as originally enacted)”.

Complaints relating to religious education and collective worship

47.—(1) In Article 33 of the 1989 Order (complaints about exercise by board or Board of Governors of functions under certain provisions of Education Orders)—

(a) in paragraph (1)(a) (matters subject to complaint) after head (iii) there shall be added the following head—

“(iv) any statutory provision relating to collective worship in grant-aided schools; or”;

(b) paragraph (2) (exception for complaints relating to religious education) shall cease to have effect.

(2) Article 23(2) of the 1986 Order (complaints relating to religious education) shall cease to have effect.

(3) Nothing in this Article or in any related repeal in Schedule 5 applies in relation to a complaint received by the Department under Article 23(2) of the 1986 Order before the coming into operation of this Article.

Capital charges in voluntary grammar schools

48. For Article 132 of the 1989 Order there shall be substituted the following Articles—

“Capital charges in voluntary grammar schools to which Articles 128 to 131 apply where agreement under paragraph 1(1)(b) of Schedule 6 to the principal Order is, or has been, in force

132.—(1) This Article applies to a voluntary grammar school to which Articles 128 to 131 apply if—

(a) an agreement with the Department under paragraph 1(1)(b) of Schedule 6 to the principal Order is in force in relation to the school; or

(b) such an agreement was in force in relation to the school at any time on or after 1 April 1992.

(2) Notwithstanding anything in Articles 128 to 131, the Board of Governors of such a school may make a charge in respect of any pupil registered at the school for the purpose of meeting expenditure incurred or to be incurred—

(a) for the provision or alteration of the premises of the school;

(b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

(3) A charge under paragraph (2) shall, in the case of pupils of a prescribed description, not exceed such amount as may be prescribed.

(4) References in paragraph (2) to the premises of the school do not include premises used wholly or mainly for boarding purposes.

Capital charges in voluntary grammar schools to which Articles 128 to 131 apply where agreement is in force under paragraph 1(1)(a) of Schedule 6 to the principal Order

132A.—(1) This Article applies to a voluntary grammar school to which Articles 128 to 131 apply if—

(a) an agreement with the Department under paragraph 1(1)(a) of Schedule 6 to the 1986 Order is in force in relation to the school; and

(b) immediately before the coming into force of that agreement, an agreement with the Department was in force under paragraph 1(1)(b) of Schedule 6 to the 1986 Order.

(2) Notwithstanding anything in Articles 128 to 131, the Board of Governors of such a school may, for such period after the date on which the agreement mentioned in paragraph (1)(a) comes into force as the Department may direct, make a charge in respect of any pupil registered at the school for the purpose of meeting expenditure incurred—

(a) for the provision or alteration of the premises of the school;

(b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

(3) Paragraphs (3) and (4) of Article 132 shall apply for the purposes of paragraph (2) of this Article as they apply for the purposes of paragraph (2) of that Article.”.

Appointment of foundation governors of grant-maintained integrated schools

49. In Schedule 5 to the 1989 Order in paragraph 2(2) in the definition of “foundation governors” for paragraph (b) there shall be substituted the following paragraph—

“(b) on any subsequent appointment to the Board of Governors—

(i) where the instrument of government of the school makes provision for the appointment of foundation governors for the purposes of this Schedule, in accordance with that instrument; and

(ii) in any other case, by the persons holding office as foundation governors,”.

Supplementary

Amendments and repeals

50.—(1) The statutory provisions set out in Part II of Schedule 4 shall have effect subject to the amendments specified in that Part.

(2) The statutory provisions set out in Schedule 5 (which include provisions which are spent or no longer of any practical utility) are hereby repealed to the extent specified in the third column of that Schedule.