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STATUTORY INSTRUMENTS

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**1998 No. 1759**

**Education (Northern Ireland) Order 1998**

**PART VII**

**FINANCING OF SCHOOLS**

**CHAPTER I**

**FINANCING OF SCHOOLS BY BOARDS**

*Schemes for financing schools*

**Schemes for financing schools - introductory**

**44.**—(1) In this Chapter “scheme” means a scheme made (or treated as made), by a board under Article 46.

(2) In this Chapter “board”, in relation to a scheme, means the board which made (or is treated as having made) the scheme.

(3) For the purposes of this Chapter—

- (a) a board’s “general schools budget” for a financial year is the amount appropriated by the board for meeting expenditure in the year in respect of all schools required to be covered in the year by any scheme made by the board;
- (b) a board’s “aggregated budget” for a financial year under a scheme is the part (determined as mentioned in Article 49) of the board’s general schools budget for the year which is available for allocation to individual schools under the scheme; and
- (c) a school’s “budget share” for a financial year under a scheme is the share of the board’s aggregated budget for the year which is to be appropriated for the school under the scheme.

(4) In relation to any scheme any reference in paragraph (3) to an amount is a reference to an amount determined (and from time to time revised) in accordance with the scheme.

(5) In this Chapter references to a school’s budget share for a financial year include—

- (a) in a case where Article 51 applies, references to that share as reduced in pursuance of a direction under that Article;
- (b) in any case, references to that share as from time to time revised in accordance with the scheme under which it is determined.

(6) The Department may by order subject to affirmative resolution substitute for references in this Chapter to a financial year references to such other period as may be specified in the order.

(7) Directions given under this Chapter by the Department—

- (a) shall be given in writing; and
- (b) shall, except for directions under Article 48(10), be published by the Department in such manner as it thinks fit.

### **Schools required to be covered by a scheme**

**45.**—(1) For the purposes of this Chapter, a school is required to be covered by a scheme in any financial year if either—

- (a) immediately before the beginning of that year it is a relevant school; or
- (b) at any time during that year it becomes a relevant school (whether by virtue of being newly established as such a school or by virtue of becoming such a school where it was previously an independent school).

(2) References in this Chapter to a relevant school in relation to a scheme made or to be made by a board are references to a grant-aided school situated in the area of the board, other than a special school or a school established in a hospital.

### **Duty of board to have scheme for financing schools**

**46.**—(1) Each board shall have a scheme prepared in accordance with this Chapter and submitted for the approval of the Department in accordance with Article 47.

(2) The scheme shall provide for—

- (a) the determination, in respect of each financial year of the board, of the budget share of each school required to be covered by the scheme in the year; and
- (b) in the case of controlled and maintained schools, the delegation by the board of the management of a school's budget share for a financial year to the Board of Governors of the school where such delegation is required by or under the scheme.

### **Preparation and imposition of schemes**

**47.**—(1) A scheme prepared by a board under Article 46 shall be submitted to the Department on or before such date as the Department may direct.

(2) In preparing a scheme under that Article a board shall take into account any guidance given by the Department as to the provisions it regards as appropriate for inclusion in the scheme.

(3) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

(4) Before preparing such a scheme a board shall consult—

- (a) the Board of Governors of every relevant school;
- (b) the Council for Catholic Maintained Schools; and
- (c) such bodies or persons as appear to the board to represent the interests of the Boards of Governors of voluntary grammar schools and grant-maintained integrated schools.

(5) The Department may request a board to furnish such information in connection with any scheme submitted to the Department as the Department may require, including information as to the results of consultations under paragraph (4).

(6) Such a scheme shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme—

- (a) either without modifications or with such modifications as it thinks fit after consulting the board concerned; and
- (b) subject to such conditions as it may specify in giving its approval.

(7) If in the case of any board either—

- (a) the board fails to submit a scheme as required by paragraph (1); or

- (b) it appears to the Department that a scheme submitted by the board as required by that paragraph does not accord with any guidance given by it for the purposes of this Article and cannot be made to do so merely by modifying it, the Department may, after consulting the board and such other persons as it thinks fit, impose a scheme making such provision of a description required to be made by a scheme under Article 46 in relation to the financing by the board of relevant schools as it considers appropriate.
- (8) A scheme imposed by the Department by virtue of paragraph (7)—
  - (a) shall be treated as if made under Article 46 by the board concerned; and
  - (b) shall come into operation on such date as may be specified in the scheme.

### **Replacement and variation of schemes**

**48.**—(1) Subject to the following provisions of this Article, a scheme may be replaced or varied by a subsequent scheme made under Article 46 by the board concerned.

(2) Subject to paragraph (5), Article 47(2) to (6) shall apply for the purposes of a scheme replacing or varying a previous scheme.

- (3) A scheme prepared by a board under Article 46 which—
  - (a) replaces a previous scheme; or
  - (b) makes any significant variation of a previous scheme, shall be submitted to the Department for its approval.

(4) A scheme under Article 46 varying a previous scheme which is not required by paragraph (3) (b) to be submitted to the Department for its approval is referred to below in this Article as a “minor variation scheme”.

(5) Paragraphs (4) to (6) of Article 47 shall not apply in relation to a minor variation scheme and such a scheme shall come into operation on such date as is specified in the scheme.

(6) The Department may give directions specifying what descriptions of variation are to be regarded as significant for the purposes of paragraph (3)(b).

(7) Where a board proposes to make a scheme under Article 46 which in its opinion is a minor variation scheme, the board shall notify the Department in writing of its proposal, giving brief particulars of the nature of the variations proposed to be made by the scheme.

(8) If so required by the Department before the end of the period of two months beginning with the date on which it receives notification under paragraph (7) of the board’s proposal, the board shall send to the Department a copy of the board’s proposed scheme.

(9) It shall be for the Department to determine whether or not any variation proposed to be made by the scheme falls within any description of variation specified in directions under paragraph (6).

(10) A scheme made under Article 46 may also be varied by a direction given by the Department, as from such date as may be specified in the direction.

- (11) Before giving such a direction the Department shall consult—
  - (a) the board concerned;
  - (b) the Council for Catholic Maintained Schools; and
  - (c) such bodies or persons as appear to the Department to represent the interests of the Boards of Governors of voluntary grammar schools and grant-maintained integrated schools.

*Provision by a scheme for determination of budget shares***Calculation of board's aggregated budget**

**49.**—(1) The part of a board's general schools budget for a financial year which is available for allocation to individual schools under a scheme (and as such constitutes the board's "aggregated budget" for the year under the scheme) is the amount remaining after deducting from the amount of the board's general schools budget for the year the amount of any expenditure of the board in the year on excepted heads or items of expenditure.

(2) In paragraph (1) "amount" means an amount determined (and from time to time revised) in accordance with the scheme.

(3) In this Chapter "excepted heads or items of expenditure" means heads or items of expenditure which in accordance with the scheme fall to be left out of account in determining the board's aggregated budget for the year.

**Application of the allocation formula**

**50.**—(1) The provision to be included in a scheme for determining the budget share for a financial year of each school required to be covered by the scheme in that year shall require that share to be determined (and from time to time revised) by the application of the allocation formula under the scheme.

(2) For the purposes of this Chapter the "allocation formula" under a scheme is a formula laid down by the scheme for the purpose of dividing among all schools required to be covered by the scheme in any financial year the board's aggregated budget for the year.

(3) In paragraph (2) "formula" includes methods, principles and rules of any description, however expressed.

(4) The allocation formula under a scheme—

- (a) shall include provision for taking into account, in the case of each school required to be covered by the scheme in any financial year, the number and ages of pupils who are, or who the board expects to be, registered at the school on such date or dates (whether before or during that year) as may be determined by or under the scheme;
- (b) shall include provision for taking into account any factors affecting the particular needs of any class or description of school required to be covered by the scheme;
- (c) may include provision for taking into account any other factors affecting the needs of individual schools which are subject to variation from school to school (including, in particular, the number of registered pupils at a school who have special educational needs and the nature of the special educational provision required to be made for them).

(5) Notwithstanding anything in any other statutory provision (including any provision of the Education Orders), the allocation formula under a scheme may, in relation to a grammar school having a preparatory department, make special provision for the determination of the budget share of that school in so far as it relates to the preparatory department.

(6) The special provision made by virtue of paragraph (5) may include provision the effect of which is that the budget share of the school, in so far as it relates to the preparatory department, is substantially less than it would have been but for that provision.

(7) In paragraphs (5) and (6) "preparatory department", in relation to a grammar school, means that part of the school in which primary education is provided.

(8) A scheme shall provide for all amounts relevant to the determination of a school's budget share under the scheme for a financial year to be determined initially before the beginning of that year.

### **Premature retirement compensation costs**

51.—(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; and in this paragraph "specified" means specified in a direction under this paragraph.

(4) Before giving a direction under paragraph (3) in relation to a Catholic maintained school, the board shall consult the Council for Catholic Maintained Schools.

(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) In relation to a controlled or maintained school, sub-paragraph (5) of paragraph 7 of Schedule 2 applies for the purposes of paragraph (3) of this Article as it applies for the purposes of sub-paragraph

(4) of that paragraph.

(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;

"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.

### *Financial delegation in respect of controlled and maintained schools*

### **Provision by a scheme for financial delegation**

52.—(1) A scheme shall include provision for requiring, in the case of each controlled or maintained school required to be covered in any financial year by the scheme, the delegation by

the board to the Board of Governors of the school of the management of the school's budget share for that year.

(2) Any provision included in a scheme by virtue of paragraph (1) is referred to in this Chapter as the "delegation requirement" under the scheme.

(3) Where a new controlled or maintained school is established and is required to be covered by a scheme, then if apart from this paragraph the delegation requirement would apply in relation to that school, that requirement shall not apply in relation to the school until such date as may be specified in the scheme in relation to the school.

(4) In the following provisions of this Chapter—

- (a) references to a school in respect of which financial delegation is required for a financial year under a scheme are to a controlled or maintained school managed by a Board of Governors to which the board is for the time being required by or under the scheme to delegate the management of the school's budget share for the year (and the Board of Governors of such a school is said to have a right to a delegated budget for the year); and
- (b) references to a school which has a delegated budget are to a controlled or maintained school managed by a Board of Governors to which a board has for the time being delegated the management of the school's budget share for a financial year in pursuance of a scheme.

#### **Conditions as to delegation**

**53.** Any delegation under a scheme of the management of a school's budget share shall be subject to such conditions—

- (a) as may be imposed by the scheme; or
- (b) as may be imposed under the scheme by the board with the approval of the Department.

#### **Effect of financial delegation**

**54.—**(1) This Article applies where a board's financial provision for relevant schools is subject to regulation by a scheme.

(2) In the case of any controlled or maintained school in respect of which financial delegation is required for a financial year under the scheme, the board shall put at the disposal of the Board of Governors in respect of the year a sum equal to the school's budget share for the year, to be spent for the purposes of the school.

(3) The times at which, and the manner in which, any such sum is put at the disposal of the Board of Governors shall be such as may be provided by or under the scheme.

(4) A board may not delegate to the Board of Governors of any controlled or maintained school required to be covered by the scheme in a financial year the power to spend any appropriated amount otherwise than as required under the scheme; and for this purpose "appropriated amount" means a sum appropriated by the board for the purposes of the school in that year.

(5) The Board of Governors of a school which has a delegated budget—

- (a) shall be entitled, subject to any provision made by or under the scheme, to spend any sum made available to it in respect of the school's budget share for a financial year as it thinks fit for the purposes of the school; and
- (b) may delegate to the principal, to such extent as may be permitted by or under the scheme, its power under sub-paragraph
  - (a) in relation to any part of that sum.

(6) The members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under paragraph (5).

### **Suspension of financial delegation for mismanagement, etc.**

**55.**—(1) Where it appears to the board, in the case of any school in respect of which financial delegation is required for the current financial year under a scheme, that the Board of Governors of the school—

- (a) has been guilty of a substantial or persistent failure to comply with any requirements or conditions applicable under the scheme; or
- (b) is not managing the appropriation or expenditure of the sum put at its disposal for the purposes of the school in a satisfactory manner, the board may suspend the Board of Governors' right to a delegated budget by giving the Board of Governors (subject to paragraph (4)) not less than one month's notice of suspension.

(2) Any notice under paragraph (1) shall specify the grounds for the proposed suspension, giving particulars of any alleged failure on the part of the Board of Governors to comply with any requirements or conditions applicable under the scheme and of any alleged mismanagement on its part.

(3) A copy of the notice shall be given to—

- (a) the principal of the school;
- (b) the Department; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools, at the same time as the notice is given to the Board of Governors.

(4) A board may suspend the right mentioned in paragraph (1) of any Board of Governors to which it has given notice under that paragraph before the expiry of the period of notice if it appears to the board to be necessary to do so by reason of gross incompetence or mismanagement on the part of the Board of Governors or other emergency.

(5) A board may withdraw a notice given under paragraph (1) at any time before the expiry of the period of notice.

(6) If the board exercises its power under paragraph (4) or (5), it shall immediately give written notification of its action and, in the case of action under paragraph (4), of the reasons for it to—

- (a) the Board of Governors and principal of the school;
- (b) the Department; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

(7) During any period when a Board of Governors' right to a delegated budget is suspended under this Article, the duty of the board under Article 54(2) shall not apply in relation to that Board of Governors.

### **Review of suspension**

**56.**—(1) It shall be the duty of the board concerned—

- (a) to review before the beginning of every financial year any suspension under Article 55 which is for the time being in force;
- (b) for the purposes of that review, to afford—
  - (i) the Board of Governors of the school concerned;

- (ii) the principal of the school concerned; and
  - (iii) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools, an opportunity for making representations with respect to the suspension and to have regard to any representations made by the Board of Governors, the principal or that Council;
- (c) to revoke any such suspension where the board considers it appropriate to do so.
- (2) The board shall give—
- (a) the Board of Governors concerned;
  - (b) the principal of the school concerned;
  - (c) the Department; and
  - (d) where that school is a Catholic maintained school, the Council for Catholic Maintained Schools, written notification of its decision on any such review.
- (3) The revocation of a suspension on a review under this Article shall take effect as from the beginning of the financial year next following the review.

**Appeal against suspension or refusal to revoke it**

- 57.**—(1) A Board of Governors shall be entitled to appeal to the Department against—
- (a) the imposition of any suspension under Article 55; or
  - (b) any refusal of a board to revoke any such suspension on a review under Article 56.
- (2) On an appeal under this Article, the Department—
- (a) may allow or reject the appeal; and
  - (b) shall have regard, in making its determination, to the gravity of the default on the part of the Board of Governors and the likelihood of its continuing or recurring.

**Financial delegation: staff**

- 58.**—(1) The following matters in relation to staff at controlled and maintained schools with delegated budgets, namely—
- (a) the determination of staff complements;
  - (b) the regulation of conduct and discipline of staff;
  - (c) the suspension and dismissal of staff; and
  - (d) the making of payments in respect of dismissals or resignations of staff, shall be subject to Schedule 2.
- (2) A scheme may provide for applying this Article and Schedule 2 in relation to persons employed to work—
- (a) partly for the purposes of school activities and partly for the purposes of non-school activities (that is to say, activities, other than school activities, carried on on the school premises and wholly or mainly under the management or control of the Board of Governors of the school); or
  - (b) solely for the purposes of non-school activities, as if all such activities were school activities.

*Financing by boards of special schools*

**Application of schemes to special schools**

- 59.**—(1) The Department may by regulations provide for requiring or authorising schemes—
- (a) to cover controlled or maintained special schools;
  - (b) to include provision, in the case of any such school which by virtue of any regulations made under sub-paragraph (a) is required or authorised to be covered by a scheme, for the delegation by the board concerned of the management of the school’s budget share for any financial year to the Board of Governors of the school.
- (2) Regulations under this Article—
- (a) may make in any provisions of this Chapter such amendments as appear to the Department to be required in consequence of any provision made in those regulations by virtue of paragraph (1); and
  - (b) may provide that any scheme shall have effect with such modifications as appear to the Department to be appropriate in consequence of any provision so made. Duty on board to make a sum of money available to Board of

**Governors of special school not covered by a scheme**

**60.**—(1) Subject to paragraphs (4) and (12), in respect of any period during which any special school is not covered by a scheme, it shall be the duty of the board to make available a sum of money which the Board of Governors of the school is to be entitled to spend at its discretion during that period (but subject to paragraph (2)) on such heads of expenditure as the board may specify or as the Department may direct.

- (2) A Board of Governors to which any sum is made available under this Article—
- (a) shall comply in spending that sum with such reasonable conditions as the board thinks fit to impose; and
  - (b) may delegate to the principal, to such extent as it may specify, its powers in relation to that sum.
- (3) The members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of any power under paragraph (2).
- (4) Where a new special school is established and is not covered by a scheme, paragraph (1) shall not apply in relation to the school until such date as the Department may direct.
- (5) Before specifying any heads of expenditure under paragraph (1), the board shall consult the Board of Governors of every special school appearing to it to be concerned and the Council for Catholic Maintained Schools and before giving any directions under paragraph (1), the Department shall consult all the boards, the Council for Catholic Maintained Schools and any other person with whom consultation appears to it to be desirable.
- (6) Where it appears to a board that a Board of Governors to which any sum is made available under this Article—
- (a) has been guilty of a substantial or persistent failure to comply with any conditions imposed on it under paragraph (2)(a); or
  - (b) is not managing the appropriation or expenditure of the sum in a satisfactory manner, the board may suspend the Board of Governors' right under paragraph (1) to have a sum of money made available to it by giving the Board of Governors (subject to paragraph (8)) not less than one month’s notice of suspension.

(7) A notice under paragraph (6) shall specify the grounds for the proposed suspension, giving particulars of any alleged failure on the part of the Board of Governors to comply with any conditions imposed on it under paragraph (2)(a) or of any alleged mismanagement on its part.

(8) A copy of the notice shall be given to—

- (a) the principal of the school;
- (b) the Department; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools, at the same time as the notice is given to the Board of Governors.

(9) A board may suspend the right mentioned in paragraph (6) of any Board of Governors to which it has given notice under that paragraph before the expiry of the period of notice if it appears to the board to be necessary to do so by reason of gross incompetence or mismanagement on the part of the Board of Governors or other emergency.

(10) A board may withdraw a notice given under paragraph (6) at any time before the expiry of the period of notice.

(11) If the board exercises its power under paragraph (9) or (10), it shall immediately give written notification of its action and, in the case of action under paragraph (9), of the reasons for it to—

- (a) the Board of Governors and principal of the school;
- (b) the Department; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained School.

(12) During any period when a Board of Governors' right mentioned in paragraph (6) is suspended under this Article, the duty of the board concerned under paragraph (1) shall not apply in relation to that Board of Governors.

(13) Articles 56 and 57 shall apply in relation to a suspension under this Article as they apply in relation to a suspension under Article 55.

#### *Financing by boards of voluntary grammar and grant-maintained integrated schools*

#### **Maintenance and other grants to voluntary grammar schools**

**61.**—(1) Subject to the provisions of this Article and Article 62, a board shall in respect of each financial year make grants (known as maintenance grants) to the Board of Governors of a voluntary grammar school situated in its area in respect of expenditure incurred or to be incurred in that year in carrying on the school, except—

- (a) expenditure incurred or to be incurred for the provision or alteration of the premises of the school; and
- (b) expenditure incurred or to be incurred for the provision of equipment for the school which is approved expenditure for the purposes of Article 68(1)(b).

(2) The amount of the maintenance grant payable in respect of a school for a financial year shall—

- (a) in so far as it derives from the aggregated budget of the board for that year, be an amount equal to the school's budget share;
- (b) in so far as it derives from excepted heads or items of expenditure of the board in that year, be such as the board may determine.

(3) A board shall make grants to the trustees of a voluntary grammar school situated in its area of amounts equal to the costs of the trustees on foot of an approved contract.

(4) Grants under this Article shall be made on such conditions (including conditions as to repayment) as the board may determine with the approval of the Department.

(5) The times at which, and the manner in which, payments are made in respect of grants under this Article shall be such as the board may determine with the approval of the Department.

(6) Subject to any conditions imposed under paragraph (4), the Board of Governors of a voluntary grammar school—

(a) shall be entitled to spend any sums received by it by way of maintenance grants as it thinks fit for the purposes of the school; and

(b) may delegate to the principal its power under sub-paragraph (a) in relation to any such sums.

(7) The members of the Board of Governors of a voluntary grammar school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under paragraph (6).

### **Withdrawal of maintenance grants from voluntary grammar school**

**62.**—(1) The Department may give to the Board of Governors of a voluntary grammar school a notice stating that the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors of the school will cease on a date specified in the notice.

(2) Subject to the following provisions of this Article—

(a) a notice under paragraph (1) may not specify as the date on which the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors of the school will cease a date falling less than 2 years after the date on which the notice is given to the Board of Governors; and

(b) before giving such a notice the Department shall consult—

(i) the Board of Governors of the school; and

(ii) the relevant board.

(3) Paragraph (2) shall not apply where the Department is satisfied that the school as currently constituted or conducted is unsuitable to continue as a voluntary grammar school on all or any of the following grounds—

(a) that the number of registered pupils at the school is too small for sufficient and suitable instruction to be provided for them at reasonable cost;

(b) that the Board of Governors has failed for a significant period of time to carry out its duties under Part III of the 1989 Order;

(c) that the Board of Governors has been guilty of substantial or persistent failure to comply or secure compliance with any other requirement imposed by or under the Education Orders or any other statutory provision.

(4) In any case within paragraph (3), the Department may give to the Board of Governors of the school a notice stating the grounds on which it considers that the school as currently constituted or conducted is unsuitable to continue as a voluntary grammar school together with full particulars of the matters relevant to each such ground.

(5) Where any of those matters are stated in the notice to be in the opinion of the Department irremediable, the notice shall also state that the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors of the school will cease on a date specified in the notice.

(6) Where paragraph (5) does not apply, the notice under paragraph (4) shall—

- (a) state that the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors of the school will cease unless the matters of which particulars are given in the notice are remedied;
  - (b) specify the measures necessary in the opinion of the Department to remedy those matters; and
  - (c) specify the time, not being less than three months after the date on which the notice is given to the Board of Governors, within which the Board of Governors is required to take those measures.
- (7) Where the Board of Governors of a voluntary grammar school fails to take the measures required by a notice under paragraph (4) within the time specified in the notice or allowed by any previous notice under this paragraph, the Department shall within the period of 2 months beginning with the date next following the end of that time either—
- (a) give notice to the Board of Governors extending the time within which those measures are required to be taken; or
  - (b) after consulting the relevant board, give a notice to the Board of Governors stating that the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors will cease on a date specified in the notice.
- (8) The Department may by notice given to the Board of Governors—
- (a) withdraw any notice under paragraph (1), (4) or (7)(b); or
  - (b) vary—
    - (i) any notice under paragraph (1) or (7)(b); or
    - (ii) any notice under paragraph (4) to which paragraph (5) applies, by substituting a later date for the date for the time being specified in the notice as the date on which the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors of the school will cease; or
  - (c) vary any notice under paragraph (4) so far as relating to any measures specified in it by virtue of paragraph (6)(b).
- (9) If by virtue of paragraph (8)(c) the Department varies any notice under paragraph (4) so as to require different measures to be taken, it shall also substitute for the time specified in the notice by virtue of paragraph (6)(c) a time ending—
- (a) not less than 3 months after the date on which the notice of variation is given to the Board of Governors; and
  - (b) where the time so specified has been extended under paragraph (7)(a), not earlier than that time as so extended.
- (10) Any variation under paragraph (9) of the time specified in a notice under paragraph (4) is without prejudice to any further extension of that time under paragraph (7).
- (11) Where the Department gives a notice under this Article to the Board of Governors of a school, it shall give a copy of the notice to the relevant board.
- (12) Where the Department gives a notice under paragraph (1), (4) or (7)(b) which states that the duty of the relevant board under Article 61 to pay maintenance grants to the Board of Governors of a school will cease on a specified date, the board shall cease to be under a duty to make such grants to that Board of Governors in respect of any period beginning on or after that date.
- (13) In this Article—
- “notice” means notice in writing;
  - “relevant board”, in relation to a voluntary grammar school, means the board for the area in which the school is situated.

### **Maintenance and other grants to grant-maintained integrated schools**

**63.**—(1) Subject to the provisions of this Article and Article 64, a board shall in respect of each financial year make grants (known as maintenance grants) to the Board of Governors of a grant-maintained integrated school situated in its area in respect of expenditure incurred or to be incurred in that year in carrying on the school, other than expenditure of a capital nature.

(2) The amount of the maintenance grant payable in respect of a school for a financial year shall—

- (a) in so far as it derives from the aggregated budget of the board for that year, be an amount equal to the school's budget share;
- (b) in so far as it derives from excepted heads or items of expenditure of the board in that year, be such as the board may determine.

(3) A board shall make grants to the Boards of Governors of a grant-maintained integrated school situated in its area of amounts equal to the costs of the trustees on foot of an approved contract.

(4) Grants under this Article shall be made on such conditions (including conditions as to repayment) as the board may determine, with the approval of the Department.

(5) The times at which, and the manner in which, payments are made in respect of grants under this Article shall be such as the board may determine with the approval of the Department.

(6) Subject to any conditions imposed under paragraph (4), the Board of Governors of a grant-maintained integrated school—

- (a) shall be entitled to spend any sums received by it by way of maintenance grants as it thinks fit for the purposes of the school; and
- (b) may delegate to the principal its power under sub-paragraph (a) in relation to any such sums.

(7) The members of the Board of Governors of a grant-maintained integrated school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under paragraph (6).

### **Withdrawal of maintenance grants from grant-maintained integrated school**

**64.**—(1) The Department may give to the Board of Governors of a grant-maintained integrated school a notice stating that the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors of the school will cease on a date specified in the notice.

(2) Subject to the following provisions of this Article—

- (a) a notice under paragraph (1) may not specify as the date on which the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors of the school will cease a date falling less than 2 years after the date on which the notice is given to the Board of Governors; and
- (b) before giving such a notice the Department shall consult—
  - (i) the Board of Governors of the school;
  - (ii) the relevant board; and
  - (iii) the Council for Catholic Maintained Schools.

(3) Paragraph (2) shall not apply where the Department is satisfied that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained integrated school on all or any of the following grounds—

- (a) that the number of registered pupils at the school is too small for sufficient and suitable instruction to be provided for them at reasonable cost;
- (b) that the Board of Governors has failed for a significant period of time to carry out its duties under Part III of the 1989 Order,

- (c) that the Board of Governors has been guilty of substantial or persistent failure to comply or secure compliance with any other requirement imposed by or under the Education Orders or any other statutory provision;
  - (d) that the school is not attended by reasonable numbers of both Protestant and Roman Catholic pupils.
- (4) In any case within paragraph (3), the Department may give to the Board of Governors of the school a notice stating the grounds on which it considers that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained integrated school together with full particulars of the matters relevant to each such ground.
- (5) Where any of those matters are stated in the notice to be in the opinion of the Department irremediable, the notice shall also state that the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors of the school will cease on a date specified in the notice.
- (6) Where paragraph (5) does not apply, the notice under paragraph (4) shall—
- (a) state that the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors of the school will cease unless the matters of which particulars are given in the notice are remedied;
  - (b) specify the measures necessary in the opinion of the Department to remedy those matters; and
  - (c) specify the time, not being less than three months after the date on which the notice is given to the Board of Governors, within which the Board of Governors is required to take those measures.
- (7) Where the Board of Governors of a grant-maintained integrated school fails to take the measures required by a notice under paragraph (4) within the time specified in the notice or allowed by any previous notice under this paragraph, the Department shall within the period of 2 months beginning with the date next following the end of that time either—
- (a) give notice to the Board of Governors extending the time within which those measures are required to be taken; or
  - (b) after consulting the relevant board, give a notice to the Board of Governors stating that the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors will cease on a date specified in the notice.
- (8) The Department may by notice given to the Board of Governors—
- (a) withdraw any notice under paragraph (1), (4) or (7)(b); or
  - (b) vary—
    - (i) any notice under paragraph (1) or (7)(b); or
    - (ii) any notice under paragraph (4) to which paragraph (5) applies, by substituting a later date for the date for the time being specified in the notice as the date on which the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors of the school will cease; or
  - (c) vary any notice under paragraph (4) so far as relating to any measures specified in it by virtue of paragraph (6)(b).
- (9) If by virtue of paragraph (8)(c) the Department varies any notice under paragraph (4) so as to require different measures to be taken, it shall also substitute for the time specified in the notice by virtue of paragraph (6)(c) a time ending—
- (a) not less than 3 months after the date on which the notice of variation is given to the Board of Governors; and

(b) where the time so specified has been extended under paragraph (7)(a), not earlier than that time as so extended.

(10) Any variation under paragraph (9) of the time specified in a notice under paragraph (4) is without prejudice to any further extension of that time under paragraph (7).

(11) Where the Department gives a notice under this Article to the Board of Governors of a school, it shall give a copy of the notice to the relevant board.

(12) Where the Department gives a notice under paragraph (1), (4) or (7)(b) which states that the duty of the relevant board under Article 63 to pay maintenance grants to the Board of Governors of a school will cease on a specified date, the board shall cease to be under a duty to make such grants to that Board of Governors in respect of any period beginning on or after that date.

(13) In this Article—

“notice” means notice in writing;

“relevant board”, in relation to a grant-maintained integrated school, means the board for the area in which the school is situated.

### *Information*

#### **Publication of schemes**

**65.** A scheme shall be published in such manner as may be prescribed—

- (a) on its coming into operation; and
- (b) on such subsequent occasions as may be prescribed.

#### **Publication of financial statements**

**66.—(1)** This Article applies where a board’s financial provision for relevant schools is subject to regulation by a scheme.

(2) Before the beginning of each financial year the board shall prepare a statement of the financial provision it plans to make in that year for relevant schools.

(3) The statement shall contain the following particulars in relation to the financial year in question—

- (a) the amount of the general schools budget of the board for that year (as initially determined for the purposes of the scheme);
- (b) the amount of the board’s aggregated budget for that year under the scheme (as so determined);
- (c) such particulars as the Department may direct of amounts deducted in respect of excepted heads or items of expenditure in arriving at the amount specified in the statement by virtue of sub-paragraph (b);
- (d) such particulars of the allocation formula under the scheme as the Department may direct;
- (e) in the case of each school required to be covered by the scheme in that year, the planned expenditure per pupil arising from the division of the school’s budget share (as so determined) by the initial pupil number;
- (f) such further information with respect to the financial provision the board plans to make in that year for relevant schools as the Department may direct.

(4) In paragraph (3)(e) “the initial pupil number” means, in relation to a financial year, the number of pupils at the school in question required under the scheme to be used in applying the allocation formula under the scheme for initial determination of the school’s budget share for that year.

- (5) After the end of each financial year the board shall prepare a statement containing such information with respect to—
- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the scheme; and
  - (b) expenditure so incurred which was incurred, or is treated by the board as having been incurred, for the purposes of each such school, as the Department may direct.
- (6) A statement under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may direct.
- (7) The board shall furnish—
- (a) the Board of Governors of each school required to be covered by the scheme in any financial year; and
  - (b) if any of those schools is a Catholic maintained school, the Council for Catholic Maintained Schools, with a copy of each statement prepared by the board under this Article in relation to that year.
- (8) A Board of Governors shall secure that a copy of any statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

**Financial statements in respect of special schools not covered by statements under Article 66**

- 67.**—(1) Before the beginning of each financial year a board shall prepare a statement of the financial provision initially planned by the board in respect of that financial year for any special schools under the management of, or maintained by, the board, other than special schools in respect of which, by virtue of any provision made by regulations under Article 59, any information is required to be included in a statement prepared by the board in respect of that year under Article 66.
- (2) A statement under paragraph (1) shall contain such information as the Department may direct.
- (3) After the end of each financial year in respect of which a board is required to prepare a statement under paragraph (1), the board shall prepare a statement containing such information with respect to—
- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the statement under paragraph (1); and
  - (b) expenditure so incurred which was incurred, or is treated by the board as having been incurred, for the purposes of each such school, as the Department may direct.
- (4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may direct.
- (5) The board shall furnish—
- (a) the Board of Governors of any school required to be covered by a statement prepared under paragraph (1) in respect of any financial year; and
  - (b) if any of those schools is a Catholic maintained school, the Council for Catholic Maintained Schools, with a copy of each statement prepared by the board under this Article in relation to that year.
- (6) A Board of Governors shall secure that a copy of any statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

## CHAPTER II

### FINANCING OF SCHOOLS BY DEPARTMENT

#### **Building and equipment grants for voluntary schools**

**68.**—(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 to the 1986 Order is in force; or
    - (B) a voluntary grammar school in relation to which an agreement under paragraph 1(1)(a) of Schedule 6 to the 1986 Order 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 to the 1986 Order 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 to the 1986 Order 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 to the 1986 Order is in force in relation to the school;
  - (iii) sixty-five per cent. of that expenditure in any other case;

(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) of the 1986 Order.

(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 making any such provision as is mentioned in that paragraph 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, subject to paragraph (6)(c), to grants made before the coming into operation of this Article under Article 116 of the 1986 Order.

#### **Capital and special purpose grants for grant-maintained integrated schools**

**69.**—(1) Regulations may provide for the payment by the Department to the Board of Governors of a grant-maintained integrated school of grants (known as capital grants) in respect of approved expenditure of a capital nature, of any class or description specified in the regulations, incurred or to be incurred for the purposes of the school.

(2) Regulations may provide for the payment by the Department to the Board of Governors of a grant-maintained integrated school of grants (known as special purpose grants) in respect of approved expenditure of a class or description specified in the regulations—

- (a) which is incurred or to be incurred by the Board of Governors; and
- (b) which it appears to the Department the Board of Governors cannot reasonably be expected to meet from maintenance grant under Article 63.

(3) The amount of any capital or special purpose grant shall be equal to 100 per cent. of the approved expenditure in respect of which it is given.

(4) The descriptions of expenditure which are to be regarded for the purposes of this Article as expenditure of a capital nature shall be such as may be determined by or in accordance with regulations.

(5) Capital and special purpose grants shall be made on such conditions (including conditions as to repayment) as the Department may determine.

(6) The times at which, and the manner in which, payments are made in respect of capital or special purpose grants shall be such as the Department may determine.

### **CHAPTER III**

#### **MISCELLANEOUS FINANCIAL PROVISIONS RELATING TO SCHOOLS**

##### **Duties of boards in relation to maintained schools**

**70.**—(1) Subject to and in accordance with regulations, the board for the area in which a maintained school is situated shall be responsible for—

- (a) the maintenance of the school premises;

- (b) providing and replacing equipment;
  - (c) employing in accordance with Article 88 of the 1986 Order persons, other than teachers, required in or about the school;
  - (d) meeting the teaching costs of the school; and
  - (e) meeting the cost of doing all such other things as may be necessary for the carrying on of the school, other than the cost of providing or altering the premises of the school.
- (2) The responsibility of a board under paragraph (1) does not extend to—
- (a) any part of the premises of a school used wholly or mainly for boarding purposes; or
  - (b) meeting any costs incurred in carrying on such part.
- (3) Paragraph (1) does not impose on a board responsibility for any matter which under an approved contract entered into by the trustees of a maintained school is the responsibility of the contractor.
- (4) The duty of a board under paragraph (1)(d) to meet the costs of a redundancy payment in respect of a teacher ceasing to be employed on the staff of a maintained school is a duty to pay to—
- (a) the Council for Catholic Maintained Schools, where the teacher was employed on the staff of a Catholic maintained school; and
  - (b) the Board of Governors of the school, in any other case, a sum equal to the amount of the redundancy payment.
- (5) A board shall be responsible for meeting the costs of the trustees of a maintained school situated in its area on foot of an approved contract, and accordingly shall make grants to those trustees of amounts equal to those costs.
- (6) Grants under paragraph (5) shall be made on such conditions (including conditions as to repayment) as the board may determine with the approval of the Department.
- (7) A board shall pay to the Council for Catholic Maintained Schools an amount equal to the expenditure incurred or to be incurred by that Council in insuring against any liability for personal injury suffered by a teacher employed on the staff of a Catholic maintained school situated in its area and arising out of and in the course of his employment by that Council.
- (8) Any question which may arise as to the responsibility of a board under this Article shall be referred to the Department whose decision thereon shall be final.
- (9) In this Article “the teaching costs”, in relation to a maintained school, means the costs of—
- (a) the salaries and allowances of teachers employed on the staff of the school;
  - (b) secondary Class 1 contributions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and employers' superannuation contributions in respect of such teachers;
  - (c) payments to which paragraph 7(1)(a) of Schedule 2 applies;
  - (d) redundancy payments under the Employment Rights (Northern Ireland) Order 1996 in respect of teachers ceasing to be employed on the staff of the school.
- (10) For the purposes of the Education Orders, a maintained school is maintained by a board if the board has the responsibilities mentioned in paragraph (1) in relation to the school.

#### **Payment of salaries, etc of teachers**

**71.**—(1) Except where regulations otherwise provide, the Department shall, on behalf of a board, issue payment of—

- (a) the salaries and allowances of—
  - (i) teachers employed by the board;

- (ii) teachers employed on the staff of a maintained school maintained by the board; and
  - (b) the relevant contributions in respect of such teachers.
- (2) Except where regulations otherwise provide, the Department shall, on behalf of the Board of Governors of a grant-maintained integrated school, issue payment of—
- (a) the salaries and allowances of teachers employed by that Board of Governors; and
  - (b) the relevant contributions in respect of such teachers.
- (3) Regulations may provide for the Department, on behalf of the Board of Governors of a voluntary grammar school, to issue payment of—
- (a) the salaries and allowances of teachers employed by that Board of Governors; and
  - (b) the relevant contributions in respect of such teachers.
- (4) In this Article “relevant contributions” means—
- (a) secondary Class 1 contributions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
  - (b) employers' superannuation contributions.

#### **Charges for educational facilities and services**

- 72.**—(1) Notwithstanding anything in the instrument of government of the school—
- (a) the Board of Governors of a controlled school which has a delegated budget;
  - (b) the managers of a voluntary school; and
  - (c) the Board of Governors of a grant-maintained integrated school, may make available educational facilities or services to any other school, institution, body or person and, subject to paragraphs (3) and (4), may make charges for any facilities or services made available under this paragraph.
- (2) A board may make available educational facilities or services in a controlled school which is under the management of the board and does not have a delegated budget, to any school, institution, body or person and, subject to paragraphs (3) and (4), may make charges for any facilities or services made available under this paragraph.
- (3) Charges under paragraphs (1) and (2)—
- (a) shall not be made in such circumstances or for such educational facilities or services as may be prescribed;
  - (b) shall not for any prescribed educational facility or service exceed such amount as may be prescribed, but shall otherwise be of such amounts and be made in respect of such educational facilities and services as the body making the charges may determine.
- (4) Nothing in paragraphs (1) to (3) applies to any charge which is prohibited or regulated by any provision of Chapter II of Part VIII of the 1989 Order.
- (5) The scheme of management for every controlled school shall provide—
- (a) for the use of the school premises (other than so much as, in pursuance of an approved contract, is under the control of the contractor) to be under the control of the Board of Governors of the school at all times; and
  - (b) for the Board of Governors to exercise control subject to any direction given to it by the board.
- (6) Paragraph (5)(a) does not apply, in the case of a controlled school which does not have a delegated budget, to the extent necessary for the exercise by the board of its powers under—
- (a) paragraph (2); or

(b) Article 32 of the Education and Libraries (Northern Ireland) Order 1993.

(7) In this Article—

“educational facilities” means the equipment, premises or other property of a school;

“educational services” includes services provided by teachers; and references to a school which has a delegated budget shall be construed in accordance with Article 52(4)(b).