

Shared Education Act (Northern Ireland) 2016

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Shared Education Act (Northern Ireland) 2016 which received Royal Assent on 9 May 2016. They have been prepared by the Department of Education (DE) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. This Act is intended to provide a legislative definition of shared education, confer a duty on the DE to encourage, facilitate and promote shared education and to confer a power on relevant arms-length bodies of the department to encourage and facilitate shared education. The Act will at the same time commence the duty specified in the Education Act (NI) 2014 for the Education Authority to encourage, facilitate and promote shared education.
4. “Building a Strong and Shared Community” has been recognised by the Executive both as the key priority within its Programme for Government 2011-15 (PfG) and as essential to the growth of a strong, modern economy and society.
5. The PfG set out three specific objectives for the Department of Education relating to shared education to:
 - establish a Ministerial Advisory Group to explore and bring forward recommendations to the Minister of Education to advance shared education;
 - ensure all children have the opportunity to participate in shared education programmes by 2015; and
 - substantially increase the number of schools sharing facilities by 2015.

6. The Ministerial Advisory Group was appointed in July 2012 and published their report in April 2013. Following a period of civic debate, the Minister accepted their recommendations in a statement to the Assembly on 22 October 2013.
One of the recommendations accepted by the Minister was to bring forward legislation on shared education.
7. Shared education aims to encourage, facilitate and promote collaborative working across educational providers, on a cross sectoral basis, to deliver educational and social benefits to learners including equality of opportunity, good relations and respect for identity, diversity and community cohesion.
8. The Education Act 2014 sets out a duty for the Education Authority to encourage, facilitate and promote shared education. The Act provides for commencement of this duty on a date as the DE may appoint (paragraph 7(2) (a)). The Shared Education Act will provide for commencement of this duty.
9. The Act will further build on the commitment to enshrine shared education in legislation by extending a duty to encourage, facilitate and promote shared education to DE and to confer a power to encourage and facilitate shared education to relevant arms-length bodies of the department.
10. The Act provides a consistent definition of shared education, setting out the core components that are regarded as the minimum essential for the delivery of shared education.
11. The Act is underpinned by “Sharing Works – A Policy for Shared Education”, which includes a description of how shared education is expected to work in practice. Together, the Act and the policy will provide a framework for the advancement of shared education. The shared education policy sits within a broader education policy framework designed to improve educational outcomes for young people and tackle the significant tail of educational under-achievement that has characterised our education system by breaking the cycle of social disadvantage, educational failure and restricted life chances.
12. Shared education covers a broad spectrum of structures and activities, including joint curricular delivery, joint extra-curricular activities and shared campuses.
13. By its nature shared education requires two or more educational establishments to work collaboratively to benefit the children and young people enrolled in these establishments. This will include two or more schools, two or more early years settings, two or more youth work settings or any combination of two or more of these settings working collaboratively (for example, a pre-school setting with a primary school; a youth group with a post-primary) subject to the partnership satisfying the minimum requirements in respect of religious belief and socio-economic status.
14. A single educational establishment that can demonstrate a mix of religious belief and socio-economic status would not satisfy the definition of shared education.

OVERVIEW

15. The Act has 10 sections.

COMMENTARY ON SECTIONS

Section 1: “Purpose”

Section 1 sets out the purpose of shared education.

Section 2: “Shared Education”

Section 2 provides a common definition of shared education. This sets out the core components that are necessary ie: the education together of those of different religious belief and those who are experiencing socio-economic deprivation and those who are not which is secured by the working together of two or more relevant providers.

Section 3: ‘Duty of Department of Education to encourage, facilitate and promote shared education’

Section 3 confers on DE a duty to promote, encourage and facilitate shared education.

Section 4: ‘Power of other bodies to encourage and facilitate shared education’

Section 4 confers on the listed bodies (the Department of Education; the Council for Catholic Maintained Schools; the Youth Council for Northern Ireland; and the Northern Ireland Council for the Curriculum, Examinations and any sectoral body) a power to encourage and facilitate shared education.

Section 5: ‘Power of Department of Education and Education Authority to form company for purposes connected with shared education’

Section 5 provides the Department of Education (DE) and the Education Authority with the power to form or participate in a company formed under the Companies Act 2006 in respect of the advancement of shared education. This section is intended to facilitate the ownership and management of shared education campuses.

Shared education campuses are a headline action in the OFMDFM *Together: Building a United Community* strategy – specifically, the commencement of 10 new shared education campuses by 2018. The Strule Campus will also be a shared education Campus. Examples would include, but are not restricted to, a Controlled and a Catholic Maintained school coming together within a shared campus; or two schools from different management sectors sharing facilities.

While there will be no change in the character, identity or ethos of schools involved in a shared education campus, they will be engaged in shared education and sharing facilities or buildings. Schools will continue to operate as separate

institutions with their own individual Board of Governors. An important factor is that schools consider themselves to be partners in their project irrespective of current or future enrolment changes.

As work has progressed with the initial group of schools that successfully applied for capital investment in a shared campus or facilities, new issues in terms of the purchase/ownership of land and management/governance arrangements have emerged for both DE and the Managing Authorities. The key emerging issue is the purchase and ownership of the land which is to be jointly occupied by two or more schools from two or more separate school management sectors. Purchase of the land by either 'owner' (i.e. the Education Authority or Catholic Trustees) is not considered to be a viable option.

The establishment of a company, formed equally by the Education Authority (EA) and the school Trustees, has emerged as a possible option for the purchase/ownership of land and management of shared education campuses. While it is envisaged that the EA will primarily form and participate in any such companies, the section also applies to DE in the event the EA and School Trustees agree this is preferable. School Trustees in the Catholic maintained sector have been using the framework of a charitable company limited by guarantee for ownership of Catholic maintained schools in particular Dioceses for several years. However there is currently no specific legislation that allows the DE or Education Authority to establish or participate in a company. Section 4 provides the legislative provision for this.

As this provision is within the scope of the Shared Education Act, the ability to form such a company is restricted to shared education purposes only.

Section 6: 'Duty of education bodies to consider shared education'

Section 6 requires DE and relevant arms length bodies to consider shared education when developing or amending policies, strategies and plans as well as the design and delivery of educational services.

Section 7: 'Review of shared education'

Section 7 places a requirement on DE to lay a report before the Assembly, no more than two years after the Act receives Royal Assent and on a biennial basis thereafter which details the extent to which DE and EA have exercised their duty and the extent to which relevant arms length bodies have exercised their power as well as levels of participation, efficiency in use of shared education resources and the impact on educational attainment and good relations. In reporting, DE will seek to assess the impact across s.75 groups and not just the core components as set out in the legislative definition.

Section 8: 'Commencement of duty of Education Authority in relation to shared education'

Section 8 amends Section 7 of the Education Act (Northern Ireland) 2014 to provide for the commencement of the duty on the Education Authority to

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which received Royal Assent on 9 May 2016*

encourage, facilitate and promote shared education. That duty will come into operation on the day after the day on which the Shared Education Act receives Royal Assent.

Section 9: ‘Interpretation’

Section 9 provides for the interpretation of words and expressions used in the Act.

Section 10: ‘Short title and commencement’

Section 10 cites the short title of the Act.

HANSARD REPORTS

The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

<i>STAGE</i>	<i>DATE</i>
First Stage	2 November 2015
Briefing on the proposed Bill to the Committee for Education	4 November 2015
Second Stage	10 November 2015
Committee Stage - evidence from Northern Ireland Council for Integrated Education and Integrated Education Fund; and Centre for Shared Education, Queen’s University, Belfast.	25 November 2015
Committee Stage - evidence from Council for Catholic Maintained Schools; Equality Commission NI and NI Human Rights Commission; NI Commissioner for Children and Young People; Rural Centre for Shared Education; Transferors Representative Council	2 December 2015
Committee Stage - evidence from Department of Education	9 December 2015
Committee Stage - consideration of all sections	16 December 2015
Committee's report on the Act – Report reference NIA 286/11-16	6 January 2016
Consideration Stage	26 January 2016
Further Consideration Stage	23 February 2016
Final Stage	8 March 2016
Royal Assent	9 May 2016