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STATUTORY INSTRUMENTS

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**1986 No. 594**

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

**PART I**

**PRELIMINARY**

***Interpretation***

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly and nothing in this Order shall, except where otherwise expressly provided, prejudice the provisions of the said Act of 1954 and section 17(2) of the said Act of 1954 (amendment, revocation etc. of statutory instruments) shall apply to statutory instruments within the meaning of that Act made under<sup>[F1]</sup> the Education Orders] and directions given under<sup>[F1]</sup> the Education Orders] by the Department whether or not such statutory instruments or directions are of a legislative character.

(2) In this Order—

“approved” means approved by the Department;

“award” includes scholarship, studentship, exhibition, bursary, maintenance or other allowance or any combination thereof;

“board” means an education and library board;

<sup>[F1]</sup>“Catholic maintained school” has the meaning assigned to it by Article 141(3) of the 1989 Order;]

“child”<sup>F2</sup>. . . means a person who is not over compulsory school age;

“clothing” includes footwear;

“college of education” means a college for the training of teachers<sup>[F3]</sup> being a college in respect of which grants are paid under Article 66(2), (2A) or (3);]

“compulsory school age” has the meaning assigned to it by Article 46;

“contributory school” means, in relation to a controlled<sup>[F1]</sup> secondary school], a controlled primary school from which, in the opinion of <sup>[F4]</sup>the Authority<sup>[F5]</sup> . . . , a substantial number of pupils proceed or are likely to proceed to the controlled<sup>[F1]</sup> secondary school] for the purpose of continuing their education;

“controlled school” means a grant-aided school under the management of <sup>[F4]</sup>the Authority] ;

<sup>[F1]</sup>“controlled integrated school” means a school which has become, or has been established as, a controlled integrated school in accordance with Articles 90 to 92 of the 1989 Order;]

*Definition rep. by 1989 NI 20*

“enactment” has the meaning assigned to it by section 1(b) of the Interpretation Act (Northern Ireland) 1954;

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“former local education authority” means a local education authority within the meaning of the enactments repealed by the 1972 Order;

[<sup>F6</sup>“further education” has the meaning assigned to it by Article 3 of the Further Education (Northern Ireland) Order 1997;]

[<sup>F1</sup>“grammar school” means a secondary school which—

- (a) immediately before the coming into operation of Article 128 of the 1989 Order was a school in which fees were charged or could have been charged in respect of pupils admitted to the school, or a school which replaces such a school or schools; or
- (b) is established after the coming into operation of that Article and is designated by the Department as a grammar school;]

“grant-aided”, when used in relation to a school, institution or establishment, means a school, institution or establishment, as the case may be, to or in respect of which grants are made under [<sup>F1</sup> the Education Orders], not being a college of education;

[<sup>F1</sup>“grant#maintained integrated school” has the meaning assigned to it by Article 65(3) of the 1989 Order;]

[<sup>F2</sup>“independent school” means a school at which full#time education is provided for pupils of compulsory school age (whether or not such education is also provided for pupils under or over that age), not being a grant#aided school;]

[<sup>F6</sup>“institution of further education” has the meaning assigned to it by Article 2(2) of the Further Education (Northern Ireland) Order 1997;]

“instrument of government of a school” means any statutory provision or any charter, deed, memorandum of association, articles of association or other document constituting the school or under which the land used for the school is vested or which otherwise relates to the school or land used for the school;

*Definition rep. by 1989 NI 20*

“junior pupil” means a child who has not attained the age of eleven years and six months;

[<sup>F7</sup>“maintained school” means a voluntary school other than a grammar school<sup>F2</sup>. . . ;]

“managers” means—

- (a) in relation to a controlled school, [<sup>F4</sup>the Authority]<sup>F5</sup>...;
- (b) [<sup>F7</sup>in relation to a voluntary school or a grant#maintained integrated school, the Board of Governors of the school;]
- (d) in relation to an independent school, the proprietor of the school;
- (e) [<sup>F6</sup>in relation to an institution of further education, the governing body of that institution;]
- (f) in relation to a college of education, the person or body responsible for its management;

“medical officer” means a registered medical practitioner employed or engaged whether regularly or for the purposes of any particular case by or by direction of the Department of Health and Social Services;

[<sup>F1</sup>“modifications” includes additions, alterations and omissions;]

“newspaper” in Articles 95 to 97 includes any newsagency which as part of its regular business sells or otherwise supplies for reward reports or information to newspapers and any organisation which as part of its regular business collects news for sound or television broadcasts or for programmes to be included in a [<sup>F8</sup> programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;]

[<sup>F9</sup>“nursery school” means a primary school which is used mainly for the purpose of providing full#time or part#time education for children who have attained the age of 2 years but are under compulsory school age;]

“officer”, in relation to [<sup>F4</sup>the Authority] , includes a servant but does not include a teacher;

[<sup>F10</sup>“parent” shall be construed subject to paragraphs (2D) to (2F);]

*Definition rep. by 1997 NI 15*

“peripatetic teacher” has the meaning assigned to it by Article 65(2)(a);

*Definition rep. by 1997 NI 15*

“premises”, in relation to a school, includes any detached playing fields but does not include a teacher's or caretaker's residence;

“prescribed” means prescribed by regulations;

[<sup>F9</sup>“primary education” means—

- (a) full#time education suitable to the requirements of junior pupils of compulsory school age; and
- (b) full#time or part#time education suitable to the requirements of junior pupils under compulsory school age;]

“primary school” means either a grant-aided school which provides only primary education or a grant-aided school which provides both primary and secondary education and is recognised by the Department as a primary school;

“proprietor”, in relation to a school, means the person responsible for the management of the school and, for the purposes of the provisions of this Order relating to applications for the registration of independent schools, includes any person proposing to be so responsible;

“provisionally registered school” means an independent school registered in the register of independent schools, the registration of which is provisional only;

“pupil”, when used without qualification, means a person of any age for whom education is provided under[<sup>F1</sup> the Education Orders];

“registered pupil”, in relation to a school, means a pupil registered as such in the register kept in accordance with the requirements of this Order but does not include any child who has been withdrawn from the school in the prescribed manner;

“registered school” means an independent school registered in the register of independent schools the registration of which is final;

“regulations” means regulations made by the Department;

[<sup>F1</sup>“scheme of management” has the meaning assigned to it by Article 9A(1);]

“school” means an institution for providing primary or secondary education or both primary and secondary education, being a grant-aided school or an independent school; and, when used without qualification, means either or both such schools as the context may require;

“secondary education” means full-time education suitable to the requirements of senior pupils<sup>F1</sup> . . . [<sup>F6</sup> other than such full-time education provided for senior pupils over compulsory school age at an institution of further education];

“secondary school” means either a grant-aided school which provides only secondary education or a grant-aided school which provides both primary and secondary education and is recognised by the Department as a secondary school;

“senior pupil” means a person who has attained the age of eleven years and six months but has not attained the age of nineteen years;

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[<sup>F2</sup>“special educational needs”, “special educational provision” and “special school” have the meanings assigned by Article 3 of the Education (Northern Ireland) Order 1996;]

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

*Definition rep. by 1993 NI 12*

*Definition rep. by 1997 NI 15*

[<sup>F11</sup>“the Authority” means the Education Authority;]

“the Department” means the Department of Education;

[<sup>F9</sup>“the Education Orders” means—

- (a) this Order;
- (b) the 1989 Order;
- (c) the Education and Libraries (Northern Ireland) Order 1993;
- (d) the Education (Northern Ireland) Order 1996;
- (e) the Education (Northern Ireland) Order 1997;
- (f) the Further Education (Northern Ireland) Order 1997;
- (g) the Education (Northern Ireland) Order 1998;
- (h) [<sup>F3</sup>the Colleges of Education (Northern Ireland) Order 2005;]
- (h) [<sup>F12</sup>the Education and Libraries (Northern Ireland) Order 2003;
- (i) the Education (Northern Ireland) Order 2006.]]

[<sup>F13</sup>“the funding departments” has the meaning given by section 6(1) of the Education Act (Northern Ireland) 2014;]

“the 1972 Order” means the Education and Libraries (Northern Ireland) Order 1972;

[<sup>F1</sup>“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989;]

“transferors” means—

- (a) any trustees or other persons by whom a school has been transferred to a former education authority under the Education Act (Northern Ireland) 1923, to a former local education authority under the Education Act (Northern Ireland) 1947 or to the Department under the 1972 Order or this Order and includes trustees appointed in place of such trustees and the representatives or successors of such persons; or
- (b) the Department, where a school is placed under the management of [<sup>F4</sup>the Authority] under Article 17(6);

“transferred provision” has the meaning assigned to it by section 1(g) of the Interpretation Act (Northern Ireland) 1954;

“trust deed” includes any instrument regulating the trusts or management of a school;

“trustees”, in relation to a voluntary [<sup>F1</sup> or grant#maintained integrated] school or college of education, means the person or persons in whom the premises of the school or college of education are, or are to be, vested;

“voluntary school” means a grant-aided school other than a controlled school [<sup>F1</sup> or a grant# maintained integrated school];

“young person” means a person over compulsory school age who has not attained the age of eighteen years.

*Paras. (2A)#(2C) rep. by 1997 NI 15*

[<sup>F14</sup>(2A) In the Education Orders references to pupils “at” or “attending” a grant-aided school include references to pupils who are not registered pupils at the school but are pupils to whom secondary education is provided at the school in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006]

[<sup>F10</sup>(2D) In the Education Orders “parent”, in relation to a child or young person, includes any person—

- (a) who is not a parent of his but who has parental responsibility for him, or
- (b) who has care of him,

except for the purposes of the provisions specified in paragraph (2E) where it only includes such a person if he is an individual.

(2E) The provisions referred to in paragraph (2D) are—

- (a) Article 13 and Schedules 4 to 8;
- (b) Articles 69, 70 and 126 of, and Schedule 5 to, the 1989 Order.

(2F) For the purposes of paragraph (2D)—

- (a) “parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995; and
- (b) in determining whether an individual has care of a child or young person any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded.]

[<sup>F15</sup>[<sup>F9</sup>(2G)] In the Education Orders references to—

- (a) an approved contract;
- (b) the contractor, in relation to an approved contract;
- (c) the relevant authority, in relation to an approved contract; and
- (d) the costs of the relevant authority on foot of an approved contract,

shall be construed in accordance with Article 25 of the Education (Northern Ireland) Order 1997.

[<sup>F9</sup>(2H)] References in the Education Orders to the staff of or at a school or to persons employed at, in or about a school do not include references to persons employed by the contractor for the purposes of an approved contract.]

(3) For the purposes of section 42(3) of the Northern Ireland Constitution Act 1973 (validity of Orders in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972) provisions of this Order which re-enact provisions of an Order in Council under the said section 1(3) shall be deemed to be provisions of such an Order.

- F1** 1989 NI 20
- F2** 1996 NI 1
- F3** 2005 NI 13
- F4** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F5** Words in art. 2(2) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F6** 1997 NI 15
- F7** 1993 NI 12
- F8** 1990 c. 42
- F9** 1998 NI 13

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- F10** 1995 NI 2
- F11** Words in art. 2(2) inserted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(1)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F12** In art. 2(2) words in definition of "the Education Orders" added (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 1**
- F13** Words in art. 2(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(2)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F14** Art. 2(2A) inserted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 22**; S.R. 2007/197, **art. 2(a)**
- F15** 1997 NI 5

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**Changes and effects yet to be applied to :**

- [art. 2\(2\)](#) words substituted by [S.I. 1998/1759 \(N.I.\) Sch. 5 Pt. 2](#)

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

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

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