STATUTORY INSTRUMENTS

1986 No. 594

The Education and Libraries (Northern Ireland) Order 1986

PART I

PRELIMINARY

Title and commencement

1.—(1) This Order may be cited as the Education and Libraries (Northern Ireland) Order 1986.

(2) This Order shall come into operation on the expiration of three months from the day on which it is made.

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**[**[F1] the Education Orders**]** and directions given under**[**[F1] 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;

[[F1]"Catholic maintained school" has the meaning assigned to it by Article 141(3) of the 1989 Order;**]**

"child"[F2]. . . means a person who is not over compulsory school age;

"clothing" includes footwear;

"college of education" means a college for the training of teachers**[**[F3] 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**[**[F1] secondary school**]**, a controlled primary school from which, in the opinion of the board responsible for the management of the controlled**[**[F1] secondary school**]**, a substantial number of pupils proceed or are likely to proceed to the controlled**[**[F1] secondary school**]** for the purpose of continuing their education;

"controlled school" means a grant-aided school under the management of a board;

[[F1]"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;

"former local education authority" means a local education authority within the meaning of the enactments repealed by the 1972 Order;

[[F4]"further education" has the meaning assigned to it by Article 3 of the Further Education (Northern Ireland) Order 1997;**]**

[[F1]"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**[**[F1] the Education Orders**]**, not being a college of education;

[[F1F5]"grant#maintained integrated school" has the meaning assigned to it by Article 65(3) of the 1989 Order;**]**

[[F2]"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;**]**

[[F4]"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;

[[F6]"maintained school" means a voluntary school other than a grammar school[F2]. . . ;**]**

"managers" means—

(a) in relation to a controlled school, the board responsible for its management;

(b) **[**[F6]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) **[**[F4]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;

[[F1]"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**[**[F7] programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;**]**

[[F8]"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 a board, includes a servant but does not include a teacher;

[[F9]"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;

[[F8]"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**[**[F1] 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;

[[F1]"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[F1]. . . **[**[F4] 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;

[[F2]"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

"the Department" means the Department of Education;

[[F8]"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) **[**[F3]the Colleges of Education (Northern Ireland) Order 2005;**]]**

[[F10]"the funding departments" has the meaning given in Article 10 of the Education and Libraries (Northern Ireland) Order 2003.**]**

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

[[F1]"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 a board 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**[**[F1] 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**[**[F1] 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

[[F9](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.**]**

[[F11]**[**
[F8](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.

[
[F8](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 1997 NI 15
F5 prosp. subst. by 1998 NI 13
F6 1993 NI 12
F7 1990 c. 42
F8 1998 NI 13
F9 1995 NI 2
F10 2003 NI 12
F11 1997 NI 5

PART II

EDUCATION AND LIBRARY BOARDS AND COMMITTEES THEREOF

Education and library boards

3.—(1) For the purposes of**[**[F12] the Education Orders**]**, there shall be five Education and Library Boards and each such board shall be the local education authority and library authority for its area.

(2) The names of the boards shall be those specified in column 1 of Schedule 1 and the area of a board shall be the areas of those local government districts specified opposite the name of that board in column 2 of that Schedule.

(3) The Department may by order, subject to affirmative resolution, amend the name or area of any board.

(4) The boards shall be constituted in accordance with the provisions set out in Part I of Schedule 2 and shall be bodies corporate to which, subject to**[**[F12] Articles 83 and 106**]**, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

(5) The procedure of boards shall be regulated in accordance with Part II of Schedule 2.

(6) The headquarters of a board shall be situated at each such place as the Department may direct or approve.

F12 1989 NI 20

Committees

4.—(1) Each board shall have a teaching appointments committee and a library committee and may appoint such other committees as it considers necessary.

(2) A teaching appointments committee shall be constituted in accordance with the provisions of Part I of Schedule 3 and a library committee shall be constituted in accordance with Part II of that Schedule.

(3 [F13] Each board shall prepare and submit to the Department for approval a scheme specifying[F14]... the procedure to be followed by its teaching appointments committee and a scheme specifying the functions to be performed and the procedure to be followed by its library committee and the functions of a library committee specified in any such scheme shall include the preparation from time to time for submission to the board of estimates of expenditure to be incurred by the board in its capacity as a library authority.

(4) A board may authorise its teaching appointments committee and its library committee and any other committee appointed by it under paragraph (1) to appoint sub-committees for such purposes**[**[F15] of the committee**]** as the board may approve and any such sub-committee may contain members who are not members of the board or of the committee which appointed the sub-committee.

(5) A board may authorise[F16]... any committee of the board all the members of which are members of the board to perform specific functions on behalf of, and in the name of, the board.

(6) Except as provided by [[F17] a scheme under Article 153 of the 1989 Order], a board shall not authorise any committee any member or members of which are not members of the board or a sub-committee to perform functions on behalf of, or in the name of, the board.

F13 certain functions transf. by SR 1999/481
F14 1989 NI 20
F15 1989 NI 20

F16 1989 NI 20
F17 1989 NI 20

PART III

PROVISION OF EDUCATION

The statutory system of education

[F18Stages and purposes of statutory system of education

5.—(1) The statutory system of public education shall be organised in three stages, namely—

(a) primary education;

(b) secondary education; and

(c) further education.

(2) It shall be the duty of a board (so far as its powers extend) to contribute towards the spiritual, moral, cultural, intellectual and physical development of the community by securing that efficient primary education and secondary education are available to meet the needs of its area.

(3) The Further Education (Northern Ireland) Order 1997 confers functions with respect to further education.**]**

F18 1997 NI 15

Powers and duties of boards in relation to primary and secondary education

Duty of boards to secure provision of primary and secondary education

6.—(1) Subject to paragraph (2), each board shall secure that there are available in its area sufficient schools for providing primary and secondary education and the schools available for an area shall not be deemed to be sufficient unless they are sufficient in number, character and equipment to afford for all pupils opportunity for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities and aptitudes, and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs and, without prejudice to the generality of the foregoing provisions of this Article, a board in fulfilling its duties under this Article shall in particular have regard to—

(a) the need for securing that special educational provision is made for pupils who have special educational needs;

(b) the expediency of securing the provision of boarding accommodation, either in boarding schools or otherwise, for pupils for whom education as boarders is considered by their parents and by the board to be desirable.

[F19(1A) In fulfilling its duty under this Article to secure that there are available in its area sufficient schools for providing secondary education a board shall have regard to any facilities for full time education which are—

(a) provided for senior pupils in an institution of further education; and

(b) available for use by such pupils living in its area.**]**

(2) Each board may provide nursery schools or nursery classes in other controlled schools; and Article 7 shall apply to any provision made by a board under this paragraph.

Para. (3) rep. by 1998 NI 13

Para. (4) rep. by 1996 NI 1

F19 1989 NI 20

Provision, maintenance and management of controlled schools by boards

7. For the purposes of fulfilling its duties under**[**[F20] the Education Orders**]**, a board may provide primary, secondary and special schools**[**[F21] within**]** its area and shall maintain and manage any such school provided by it or transferred to its management by Article 7(2) of the 1972 Order.

F20 1989 NI 20
F21 1998 NI 13

[F22]*Duties of boards in relation to certain voluntary schools*

8.—(1) Subject to and in accordance with regulations, a board shall, in relation to a maintained school, be responsible for the maintenance of the school premises, for providing and replacing equipment, for employing in accordance with Article 88 persons, other than teachers, required in or about the school and for meeting the cost of doing all such other things as may be necessary for the carrying on of the school except meeting the cost of—

(a) providing new or altering existing school premises;

Sub#paras. (b) and (c) rep. by 1989 NI 20

but such responsibility shall not extend to any part of the school premises used wholly or mainly for boarding purposes or to any expenses incurred in carrying on such part.

[[F23](1A) Paragraph (1) does not impose on a board responsibility for any matter which under an approved contract entered into by the trustees of a school maintained by it is the responsibility of the contractor.

(1B) A board shall be responsible for meeting the costs of the trustees of a school maintained by it on foot of an approved contract, and may, for the purposes of this paragraph, make grants to those trustees on such conditions (including conditions as to repayment) as it may determine with the approval of the Department.**]**

Paras. (2)#(4) rep. by 1996 NI 1

(5) Any question which may arise as to the responsibility or functions of a board under this Article shall be referred to the Department whose decision thereon shall be final.

(6) In this Article "board" in relation to a school means the board for the area in which the school is situated or such other board as the Department may determine.

F22 prosp. rep. by 1998 NI 13
F23 1997 NI 5

[F24]*Power of boards to assist voluntary grammar schools and direct grant voluntary intermediate schools*

9.—**[**[F25](1)**]** A board, with the approval of the Department, may—

(a) give assistance, other than financial assistance, to the trustees or Board of Governors of a voluntary grammar school[F25]. . . ; and

(b) give financial assistance to the trustees or Board of Governors of a voluntary grammar school,**[**[F26] in relation to which an agreement with the board is in force under paragraph 2 of Schedule 6.**]**

[[F25](2) A board, with the approval of the Department, may give financial or other assistance to the Board of Governors of a grant#maintained integrated school on such terms and conditions as may be arranged between the board and the Board of Governors of the school.**]**

F24 prosp. rep. by 1998 NI 13
F25 1989 NI 20
F26 1993 NI 12

School management

[[F27]**Schemes of management**

9A.—(1) For every grant#aided school[F28]. . . there shall be a scheme (to be known as a "scheme of management") providing for—

(a) the membership and procedure of the Board of Governors of the school;

(b) the management of the school, and in particular the functions to be exercised in relation to the school by the Board of Governors, the principal and any other person or body specified in the scheme;

(c) such other matters as are required or authorised by the Education Orders to be included in or regulated by the scheme of management.

(2) The scheme of management for a grant#aided school may provide for the establishment by the Board of Governors of the school of committees (whether or not including persons who are not members of the Board of Governors) and for—

(a) the membership and procedure of such committees;

(b) the delegation to such committees of such functions of the Board of Governors of the school as may be specied in or determined in accordance with the scheme.

(3) The scheme of management for a grant#aided school may provide for the delegation to the principal of the school of such functions of the Board of Governors as may be specified in or determined in accordance with the scheme.

(4) The scheme of management for a grant#aided school shall—

(a) contain no provision which is inconsistent with any provision of the Education Orders or any other statutory provision;

(b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government of the school.

(5) The scheme of management for—

(a) a controlled integrated school, shall be a scheme applying only to that school;

(b) any other controlled school, may be either a scheme applying only to that school or a scheme applying to that school and to other controlled schools, all being schools specified, or of a description specified, in the scheme.

(6) The scheme of management for a Catholic maintained school may be a scheme applying only to that school or a scheme applying to that school and to other Catholic maintained schools, all being schools specified, or of a description specified, in the scheme.
*Para. (7) rep. by 1993 NI 12***]**

F27 1989 NI 20
F28 1997 NI 15

Preparation of schemes of management

9B.—(1) It shall be the duty of a board to prepare a scheme or schemes of management for controlled schools under the management of the board; but before preparing a scheme of management applying to any school the board shall consult the Board of Governors of that school.

(2) It shall be the duty of a board, after consultation with the managers or trustees of a maintained school (other than a Catholic maintained school) maintained by it, to prepare a scheme of management for the school.

(3) It shall be the duty of the Council for Catholic Maintained Schools to prepare a scheme or schemes of management for Catholic maintained schools; but before preparing a scheme of management applying to any school the Council shall consult the trustees or managers of the school and the board by which the school is maintained.

[[F29](4) It shall be the duty of the Board of Governors of a voluntary school (other than a maintained school) to prepare a scheme of management for the school.**]**

(5) It shall be the duty of the Board of Governors of a grant#maintained integrated school to prepare a scheme of management for the school.

(6) In preparing a scheme of management under this Article a body or person shall take into account any guidance given by the Department as to the provisions it regards as suitable for inclusion in that scheme.

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

F29 1993 NI 12

Approval or imposition of scheme of management by Department

9C.—(1) Every body or person required by Article 9B to prepare a scheme of management shall, on or before such date as the Department may direct, submit the scheme to the Department for its approval, and in this Article and Article 9D "the submitting authority", in relation to a scheme, means the body by which or person by whom the scheme is required to be prepared.

(2) In the case of a scheme prepared under paragraph (1) or (3) of Article 9B the submitting authority shall also submit to the Department such information as to the results of consultations under that paragraph as the Department may require.

(3) A scheme of management submitted under paragraph (1) 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 either without modifications or with such modifications as it thinks fit after consulting the submitting authority.

(4) Where—

(a) a submitting authority fails to submit a scheme to the Department as required by paragraph (1); or

(b) it appears to the Department that a scheme submitted by a submitting authority as required by that paragraph does not accord with any guidance given by it for the purposes of Article 9B and cannot be made to do so merely by modifying it,

the Department may impose a scheme of management making such provision of a description required or authorised to be made by a scheme of management as it considers appropriate.

(5) A scheme of management imposed by the Department by virtue of paragraph (4)—

(a) shall be treated for all purposes as if it had been prepared by the submitting authority and approved by the Department under this Article; and

(b) shall come into operation on such date as may be specified therein.

(6) Before imposing a scheme under paragraph (4) the Department shall consult the submitting authority and—

(a) in the case of a scheme of management applying to a controlled school or controlled schools, the Board of Governors of the school or schools to which the scheme applies;

(b) in the case of a scheme of management applying to a maintained school (other than a Catholic maintained school) the managers or trustees of the school; and

(c) in the case of a scheme of management applying to a Catholic maintained school or schools, the managers or trustees of the school or schools to which the scheme applies and the board or boards by which any such school is maintained.

(7) The Council for Catholic Maintained Schools shall provide each board with a copy of the scheme or schemes of management approved under this Article and applying to the Catholic maintained schools maintained by that board.

Revision of schemes of management

9D.—(1) A submitting authority may at any time, and shall if the Department so directs, prepare a revised scheme of management and submit it to the Department for its approval.

(2) Article 9B(6) and (7) shall apply in relation to the preparation of a revised scheme of management as it applies in relation to the preparation of the initial scheme.

(3) A revised scheme of management submitted under paragraph (1) 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 either without modications or with such modications as it thinks fit after consulting the submitting authority.

Management of controlled schools

10.—[[F30](1) Subject to paragraph (2), a board shall make provision by means of a Board of Governors to be appointed by the board for the management of each controlled school under its management[F31]. . . .

(2) Two or more controlled primary schools, other than controlled integrated primary schools or nursery schools, under the management of a board may, if the board so determines and the Department approves, be grouped under one Board of Governors.

(3) The scheme of management for a controlled school—

(a) shall, in so far as it relates to the membership of the Board of Governors of the school, comply with the provisions of Schedule 4;

(b) may provide for the carrying out by the Board of Governors in relation to the school of specified functions on behalf of, and in the name of, the board.**]**

Para. (4) rep. by 1989 NI 20

[F32](5) A Board of Governors shall, when carrying out specified functions on behalf of, and in the name of, the board, be regarded as a committee of the board but shall not be so regarded for any other purpose and the functions of a Board of Governors in relation to the appointment of teachers under Schedule 14 or the appointment of other staff under Article 88 shall not be regarded as being carried out on behalf of, or in the name of, the board.

F30 1989 NI 20
F31 1997 NI 15
F32 prosp. subst. by 1989 NI 20

[[F33]Management of voluntary schools

11.—(1) Subject to paragraph (3), each voluntary school shall be under the control and management of a Board of Governors.

(2) Subject to paragraph (3), each maintained school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Part I of Schedule 5[F34]. . . .

(3) Two or more maintained primary schools, other than nursery schools, may be grouped under one Board of Governors where the trustees or Board of Governors of each school so requests and—

(a) in the case of Catholic maintained schools, the Council for Catholic Maintained Schools, with the approval of the Department, so determines; and

(b) in the case of other maintained schools, the board, with the approval of the Department, so determines.

(4) Each voluntary grammar school in relation to which an agreement under paragraph 1 of Schedule 6 is in force shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6.

(5) Each voluntary grammar school in relation to which no agreement under paragraph 1 of Schedule 6 is in force shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 7.
Para. (6) rep. by 1996 NI 1]

F33 1993 NI 12
F34 1996 NI 1

[[F35]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.]

F35 1993 NI 12

Miscellaneous provisions relating to Boards of Governors

13.—(1) The proceedings of a Board of Governors[[F36] of a grant#aided school] shall not be invalidated by any vacancy among its members or by any defect in the appointment, election or nomination of any member.

(2) Without prejudice to the generality of paragraph (1), where[[F36] members of the Board of Governors of a grant#aided school] are required to be elected or nominated by other persons then

if, for whatever reason, such members have not yet**[**[F36] been**]**, or cannot be, so elected or nominated the Board of Governors shall notwithstanding such vacancies be regarded as fully constituted.

(3) Nothing in paragraph (1) or (2) affects the operation of any provision relating to the quorum for meetings of a Board of Governors.

[[F36](3A) Where, at any grant#aided school,—

(a) one or more vacancies for parent members are required to be filled by election; and

(b) the number of parents standing for election as parent members is less than the number of vacancies,

the required number of parent members shall be made up by persons appointed by the voting members of the Board of Governors of the school.

[
[F37](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.**]**

(3B) Where it is reasonably practicable to do so, it shall be the duty of the voting members of the Board of Governors in appointing any person under paragraph (3A)**[**[F37] or (3AA)**]** to appoint a person who is the parent of a registered pupil at the school.

(3C) In paragraph (3A)**[**[F37] or (3AA)**]** "parent member" means a member of the Board of Governors of a grant#aided school who but for that paragraph would be required to be elected by parents of pupils attending the school from amongst the parents of such pupils.

(3D) A person appointed under paragraph (3A)**[**[F37] or (3AA)**]** shall for all purposes of the Education Orders except Schedule 8 to the 1989 Order be treated as if he had been duly elected as a member of the Board of Governors by parents of pupils attending the school.

(3E) In paragraphs (3A)**[**[F37], (3AA)**]** and (3B) "voting members" has the meaning assigned to it by Article 122(3) of the 1989 Order.**]**

(4) An assistant teacher elected as a member of the Board of Governors of one or more than one**[**[F36] grant#aided**]** school shall, on ceasing to be an assistant teacher at the school or one of the schools, cease to hold office as a member of the Board of Governors.

(5) A parent elected as a member of the Board of Governors of one or more than one**[**[F36] grant#aided**]** school shall not by reason only of ceasing to be a parent of a pupil attending the school or one of the schools cease to hold office as a member of the Board of Governors.

(6) Where the principal of a**[**[F36] grant#aided**]** school is absent or otherwise unavailable, the Board of Governors of the school may invite the vice-principal or other person for the time being performing the duties of the principal to attend a meeting of the Board of Governors; and any person so invited shall be entitled to attend and take part in the meeting but not to vote on any question.

[[F36](7) Any question as to the right of any person to be, or to appoint or nominate, a member of the Board of Governors of a grant#aided school shall be decided by the Department whose decision shall be final.**]**

F36 1989 NI 20
F37 1993 NI 12

Establishment, recognition and discontinuance of, and effecting of changes to, grant-aided schools

Proposals as to primary and secondary education

14.—(1) Where a board proposes—

(a) to establish a new controlled school**[**[F38], other than a controlled integrated school**]**;

(b) to have an existing school recognised as a**[**[F38] controlled school, other than a controlled integrated**]** school;

(c) to discontinue a controlled school;

(d) to make a significant change in the character or size of a controlled school;

(e) to make any other change in a controlled school which would have a significant effect on another grant-aided school,

the board shall submit the proposal to the Department.

(2) Where a person other than a board proposes—

(a) to establish a new voluntary school;

(b) to have an existing school recognised as a**[**[F38] voluntary**]** school;

(c) to discontinue a voluntary school;

(d) to make a significant change in the character or size of a voluntary school;

(e) to make any other change in a voluntary school which would have a significant effect on another grant-aided school,

[[F38]then—

(i) where the school is, or is proposed to be established or recognised as, a Catholic maintained school, the person making the proposal shall submit it to the Council for Catholic Maintained Schools which, after making such modifications (if any) as may be agreed with the person making the proposal, shall submit the proposal to the board for the area in which the school is, or is to be, situated together with the Council's views thereon;

(ii) in any other case, the person making the proposal shall submit the proposal to the board for the area in which the school is, or is to be, situated,

and that board shall submit the proposal to the Department together with its views thereon and, in a case to which head (i) applies, the Council's views thereon.**]**

(3) It shall, where the Department so directs, be the duty of a board to submit to the Department a proposal—

(a) to establish a new controlled school**[**[F38], other than a controlled integrated school**]**;

(b) that a controlled or voluntary school should be discontinued;

(c) that a significant change should be made in the character or size of a controlled or voluntary school.

(4) A proposal under paragraph (1), (2) or (3) shall be in such form and contain such particulars as may be required by the Department.

[[F39](5) Before a proposal concerning an existing school is submitted to the board under paragraph (2), the person making the proposal shall consult the following persons (or representatives of them)—

(a) the Board of Governors of the school concerned;

(b) the teachers employed at that school; and

(c) the parents of registered pupils at that school.

(5A) Before a proposal concerning an existing school is submitted to the Department by the board under paragraph (1) or (3), the board shall consult the following persons (or representatives of them)—

(a) the Board of Governors of the school concerned;

(b) the teachers employed at that school; and

(c) the parents of registered pupils at that school.

(5B) Before a proposal concerning any school is submitted to the Department by the board under paragraph (1), (2) or (3), the board shall consult the trustees and managers (or representatives of them) of any other school which would, in the opinion of the board, be affected by the proposal.**]**

(6) A board, after submitting a proposal to the Department under paragraph (1), (2) or (3), shall—

(a) forthwith furnish to the trustees and managers of every school which would, in the opinion of the board, be affected by the proposal such particulars of the proposal as are sufficient to show the manner in which the school would be affected;

(b) forthwith publish by advertisement in one or more newspapers circulating in the area affected by the proposal a notice stating the nature of the proposal, that the proposal has been submitted to the Department, that a copy of the proposal can be inspected at a specified place and that objections to the proposal can be made to the Department within two months of the date specified in the advertisement, being the date on which the advertisement first appears;

(c) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as the board may determine.

(7) Subject to Article 15(3), the Department, after considering any objections to a proposal made to it within the time specified in the notice under paragraph (6)(b), may, after making such modification, if any, in the proposal as, after consultation with the board or person making the proposal**[**[F38] and, in a case to which paragraph (2)(i) applies, the Council for Catholic Maintained Schools**]**, it considers necessary or expedient, approve the proposal and inform that board or person accordingly.

(8) In relation to a proposal made under paragraph (3), paragraph (7) shall have effect with the substitution for the references to the person making the proposal of references to the trustees and managers of the school to which the proposal relates.

(9) A proposal under paragraph (1), (2) or (3) shall not be implemented until it has been approved by the Department.

[[F40](9A) Subject to paragraph (9B), where a proposal under paragraph (1), (2) or (3) is approved by the Department after 1st April 1987, it shall be the duty of the board or person making the proposal to implement the proposal.

(9B) The Department may modify any proposal which is required to be implemented under paragraph (9A), but shall not do so except at the request of the board or person making the proposal.**]**

[[F38](9C) Where the Department approves under paragraph (9) a proposal submitted to a board under paragraph (2)(i) by the Council for Catholic Maintained Schools, it shall be the duty of the Department to make such amendments (if any) to the scheme under Article 141(4) of the 1989 Order as appear to the Department to be necessary or expedient in connection with the implementation of that proposal.**]**

(10) Any dispute as to whether, for the purposes of this Article, a change is a significant change or would have a significant effect on another grant-aided school shall be determined by the Department.

F38 1989 NI 20
F39 2003 NI 12

F40 1987 NI 2

Establishment and recognition of grant-aided schools

15.—(1) Where the Department approves a proposal to establish a**[**[F41] controlled or voluntary**]** school, the board or other person by whom the proposed school is to be established shall, unless the Department otherwise determines, submit to the Department in such form and in such manner as the Department may from time to time direct, specifications and plans for the school premises and the Department, on being satisfied that the school premises will conform to the standards specified[F42]. . . under Article 18 with or without such exemption from those standards as the Department may grant under that Article, may approve the specifications and plans.

(2) Where the proposal, specifications and plans for a new school have been approved by the Department, the board or persons by whom the proposed school is to be established shall not give effect to the proposal otherwise than in accordance with the specifications and plans as so approved.

(3) The Department shall not approve under Article 14(7) a proposal for the establishment**[**[F41] of a new voluntary school or the recognition of an existing school as a voluntary school**]** unless the school is to become a maintained school or unless it is to become a grammar school**[**[F43] in relation to which an agreement with the Department under paragraph 1(1) of Schedule 6 is in force**]**;[F43]. . .

(4) Where the Department approves a proposal for the recognition of an existing school as a**[**[F41] controlled or voluntary**]** school, the Department may grant such recognition upon such terms and subject to such conditions as it may determine.

F41 1989 NI 20
F42 1996 NI 1
F43 1993 NI 12

Discontinuance of grant-aided schools

16.—(1) Subject to paragraph (2), where the trustees of a voluntary school propose to discontinue the school they shall give at least two years notice of their intention to the Department and to the board for the area in which the school is situated but no such notice given without the prior approval of the Department shall be effective if the school premises were built or altered with the aid of a grant from the Department or financial assistance by a board or, before 1st October 1973, by a former local education authority.

(2) Paragraph (1) shall not apply where the Department and the board for the area in which the school is situated agree to dispense with the notice required by that paragraph.

(3) If, during the period of a notice given under paragraph (1) in respect of a voluntary school, the trustees of the school inform the Department that they are unable or unwilling to carry on the school until the expiration of the notice, the Department may give such directions as to the carrying on of the school and as to the education of the children attending the school as it thinks expedient.

(4) Where a voluntary school is discontinued and—

(a) moneys have been paid in respect of the school under[F44] Article 116, the trustees shall**[**[F45] repay to the Department such sums as are repayable in accordance with the provisions of regulations under that Article**]**;

Sub#para. (b) rep. by 1996 NI 1

(c) moneys have been paid in respect of the school under section 10 of the Education Act (Northern Ireland) 1930 or section 106 of the Education Act (Northern Ireland) 1947, the provisions of those sections and of any regulations thereunder relating to the repayment

of such moneys shall continue to apply to the school as if those sections had not been repealed.

F44 prosp. subst. by 1998 NI 13
F45 1993 NI 12

Transfer of voluntary schools

17.—(1) Notwithstanding anything in any instrument of government of a voluntary school, the trustees of the school may, with the consent of the Department given after consultation with the appropriate board, transfer to the Department the school (which expression in this Article includes any land, equipment or teachers' residences held or used in connection with the school by the trustees or managers of the school) upon such terms as may be agreed by the trustees, the Department and the relevant board and the provisions of Schedule 9 shall apply to any such transfer.

(2) The terms on which a school is transferred to the Department under paragraph (1) may contain a provision that in specified circumstances the school should be transferred back to the original transferors or transferred to such other persons as may be specified.

(3) A school transferred under paragraph (1) shall, on the date of the transfer, become a controlled school and the Department shall place it under the management of the appropriate board and may, subject to the terms on which the school was transferred to the Department, convey to that board any estate in land relating to the school and, whether or not it does so, may transfer to the board any equipment, furniture or other movable contents of the school transferred to it under paragraph (1).

(4) The trustees of a school transferred under paragraph (1) shall, from the date of the transfer, be absolutely freed and discharged from all responsibility in connection with the school whether under any deed of trust or otherwise.

(5) The existing staff of teachers in a school transferred under paragraph (1) shall from the date of transfer be placed as regards appointment, dismissal and remuneration on terms not less favourable than those applicable to them before the transfer and any question which may arise as to the fulfilment or observance of the provisions or requirements of this paragraph shall be referred to the Department whose decision thereon shall be final.

(6) Where a school is vested in the Department, it may place the school under the management of the appropriate board but shall not do so without the consent of the managers of the school and where it does so, the Department may convey to that board any estate in land relating to the school.

(7) In this Article "the appropriate board" in relation to a school means the board for the area in which the school is situated,[F46]. . . .

F46 1998 NI 13

[[F47]Regulations as to carrying on of grant#aided schools

17A.—(1) The Department may by regulations make provision as to the carrying on of grant# aided schools.

(2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may include provision—

(a) prescribing the terms and conditions on which a school may remain a grant#aided school;

(b) with respect to the number and composition of the teaching staff to be provided in grant# aided schools;

(c) with respect to the duration of the school day**[**[F48], school term**]** and school year at such schools;

(d) with respect to the curriculum and time#table to be followed in such schools;

(e) enabling the Department to prohibit the use in such schools of any book or the teaching material of which the Department does not approve;

(f) preventing the use of the premises of such schools for such purposes as may be prescribed.

[[F48](g) with respect to the keeping, disclosure and transfer of educational records about pupils at such schools and the supply of copies of such records to such persons, and in such circumstances, as may be determined by or under the regulations.**]**

[[F48](2A) Regulations made under paragraph (1) by virtue of paragraph (2)(g) may authorise persons who in pursuance of the regulations supply copies of any such records as are there mentioned to charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.**]**

(3) Regulations under this Article may enable the Department**[**[F48] or a prescribed body or person**]** to authorise such exceptions, grant such approvals and make such determinations for the purposes of the regulations as are specified therein.**]**

F47 1987 NI 2
F48 1989 NI 20

Modifications etc. (not altering text)

C1 Art. 17A(2)(g) amendment continued (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 2(a)**

C2 Art. 17A(2A) amendment continued (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 2(b)**

[[F49]**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.**]**

F49 1993 NI 12

Arts. 19, 20 rep. by 1989 NI 20

Religious education in schools

Religious education in controlled and voluntary schools other than nursery and special schools

21.—(1) Subject to the provisions of this Article, religious**[**[F50] education**]** shall be given in every**[**[F50] grant#aided**]** school other than a nursery[F51]. . . school and the school day in every such school shall also include collective worship whether in one or more than one assembly on the part of the pupils in attendance at the school.

(2) In a controlled school**[**[F50], other than a controlled integrated school,**]** the religious**[**[F50] education**]** required by paragraph (1) shall be undenominational religious**[**[F50] education**]**, that is to say,**[**[F50] education**]** based upon the Holy Scriptures according to some authoritative version or versions thereof but excluding**[**[F50] education**]** as to any tenet distinctive of any particular religious denomination and the collective worship required by paragraph (1) in any such school shall not be distinctive of any particular religious denomination.

[[F52](3) Subject to paragraph (3A), in—

(a) a controlled integrated school;

(b) a grant#maintained integrated school; and

(c) a voluntary school,

the religious education and collective worship required by paragraph (1) shall be under the control of the Board of Governors of the school and that religious education shall be subject to such arrangements for inspection and examination as the Board of Governors thinks fit.**]**

[[F50](3A) In a grant#aided school the religious education required by paragraph (1) shall include religious education in accordance with any core syllabus specified under Article 13(1) of the 1989 Order.**]**

(4) Religious**[**[F50] education**]** and collective worship required by paragraph (1) shall be so arranged that—

(a) the school shall be open to pupils of all religious denominations for**[**[F50] education**]** other than religious**[**[F50] education**]**;

(b) no pupil shall be excluded directly or indirectly from the other advantages which the school affords.

(5) If the parent of any pupil requests that the pupil should be wholly or partly excused from attendance at religious**[**[F50] education**]** or collective worship or from both, then, until the request is withdrawn, the pupil shall be excused from such attendance in accordance with the request.

(6) No payment from public funds in respect of a pupil shall be varied by reason of his attendance or non-attendance at religious**[**[F50] education**]** or collective worship.

(7) Ministers of religion and other suitable persons, including teachers of the school, to whom the parents do not object shall, subject to paragraph (8), be granted reasonable access at convenient times to pupils in any**[**[F50] grant#aided**]** school other than a nursery[F51]. . . school for the purpose of giving religious**[**[F50] education**]**, whether as to tenets distinctive of a particular religious denomination or otherwise, or of inspecting and examining the religious**[**[F50] education**]** given in the school and**[**[F50] education**]** given by virtue of this paragraph may be in addition to that provided under paragraph (1).

(8) Paragraph (7) shall not, without the consent of the managers of the school, apply to a voluntary school in existence immediately before 1st October 1973 which was not at that date required to give such access as is referred to in that paragraph and where a pupil has been wholly or partly

excused from attendance at religious[F50 education] in any voluntary school to which such access is not granted, such pupil may be withdrawn from the school during such periods as are reasonably necessary for the purpose of enabling him to receive religious[F50 education] of which his parents approve.

(9) The Department shall make such regulations as it considers necessary for securing that the provisions of this Article relating to religious education are complied with in all[F50 grant#aided] schools other than nursery[F51]. . . schools, and in particular such regulations may contain provisions with respect to—

(a) the times during which any religious observance may be practised or any religious[F50 education] may be given;

(b) the times during which pupils may be withdrawn from the school so that they may receive religious[F50 education] in accordance with the provisions of paragraph (8);

(c) the making of arrangements for religious[F50 education] in schools;

(d) the amount of time which may be allotted in the time-tables of schools to religious[F50 education].

F50 1989 NI 20
F51 1996 NI 1
F52 1993 NI 12

Duties of teachers in controlled schools as to collective worship and religious instruction

22.—(1) Subject to the provisions of this Article, the teachers in every controlled school other than[F53 a controlled integrated school or] a nursery[F54]. . . school, if so requested by the board which controls the school, shall conduct or attend collective worship in the school and give undenominational religious[F53 education] in the school but a teacher in a controlled school shall not be required to give religious[F53 education] other than undenominational religious[F53 education].

(2) A teacher who has, under paragraph (1), been required to conduct or attend collective worship or give undenominational religious[F53 education], may make a request to the Board of Governors of the school in which he is serving to be wholly or partly excused from conducting or attending such worship or giving such[F53 education] or both from conducting and attending such worship and giving such[F53 education] and at the same time furnish to the Board of Governors for submission to the board which controls the school a statutory declaration that his request to be so excused is made solely on grounds of conscience.

(3) Where a teacher makes a request under paragraph (2) and furnishes the statutory declaration required by that paragraph, the teacher shall, until the request is withdrawn, be excused in accordance with the request and whilst he is so excused shall not receive less emoluments or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he does not conduct or attend collective worship or give undenominational religious[F53 education].

(4) Where a board is wholly or partly unable to arrange that the teachers in a school conduct the collective worship or give the undenominational religious[F53 education] which it is required to provide in the school in accordance with the provisions of Article 21, the board may, for the purpose of fulfilling its obligations under that Article, advertise for and appoint a teacher to conduct such collective worship or give such religious[F53 education].

F53 1989 NI 20
F54 1996 NI 1

Modifications etc. (not altering text)

C3 Art. 22 amendment continued (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 3**

Religious instruction not to be inspected, but complaints to be investigated, by Department

Para. (1) rep. by 1989 NI 20

Para. (2) rep. by 1993 NI 12

Arts. 24#28 rep. by 1989 NI 20

Arts. 29#34 rep. by 1996 NI 1

Art. 35 rep. by 1987 NI 2

Art. 36 rep. by 1996 NI 1

Recreational, social, physical, cultural and youth service activities

Provision of facilities for recreational, social, physical, cultural and youth service activities

37 [F55]**.**—(1) Each board shall secure the provision for its area of adequate facilities for recreational, social, physical, cultural and youth service activities and for services ancillary to education and for that purpose may, with the approval of the Department, either alone or together with any other board or any other person—

(a) establish, maintain and manage any such facilities;

(b) organise any such activities;

(c) assist, by financial contributions or otherwise, any person to establish, maintain and manage any such facilities or to organise any such activities;

(d) provide, or assist by financial contribution or otherwise in the provision of, leaders for such activities; and

(e) defray or contribute towards the expenses of any persons taking part in any such activities.

(2) A board shall, in carrying out its functions under paragraph (1), have regard to the facilities provided by other boards and by other persons.

(3) A board may from time to time make bye-laws for all or any of the following purposes—

(a) for regulating the use and management of any lands or buildings provided by it for any of the purposes mentioned in paragraph (1);

(b) for regulating the days and times of, and charges for, admission to such lands or buildings;

(c) for the preservation of order and prevention of nuisances in such lands and buildings;

and such bye-laws may authorise persons employed by the board to enforce the bye-laws and to take all steps and do all acts and things necessary for that purpose and, in particular authorise such persons or members of the Royal Ulster Constabulary after due warning to remove or exclude from any place with respect to which any such bye-laws are for the time being in force a person who commits, or who is reasonably suspected of committing, in that place an offence against any such bye-law or against section 4 of the Vagrancy Act 1824.

(4) Where a board has, for the purposes of paragraph (1), assumed responsibility for the maintenance and management of any lands or buildings situated outside its area, bye-laws relating

to such lands or buildings shall not be confirmed without consultation with the board for the area in which such lands or buildings are situated.

F55 certain functions transf. by SR 1999/481

PART IV

INDEPENDENT SCHOOLS

Registration of independent schools

38.—(1) The Department shall keep a register of all independent schools which register shall be open to public inspection at all reasonable times and the Department shall, subject to paragraphs (2) and (3), register therein any independent school the proprietor of which makes application for the purpose in the prescribed manner and furnishes the prescribed particulars.

(2) An independent school shall not be registered if, by virtue of an order made under this Part—

(a) the proprietor is disqualified from being the proprietor of an independent school; or

(b) the school premises are disqualified from being used as a school; or

(c) the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order.

(3) The registration of an independent school shall be provisional only until the Department, after the school has been inspected on its behalf under the provisions of this Order, gives notice to the proprietor that the registration is final.

(4) The Department may make regulations prescribing the particulars to be furnished by the proprietors of independent schools and such regulations may provide for the notification to the Department of any changes in the particulars so furnished and as to the circumstances in which the Department may delete the name of any school from the register in the event of its being unable to obtain sufficient particulars thereof.

(5) Any person who—

(a) conducts an independent school, whether established before or after the coming into force of this Article, which is not registered or provisionally registered under paragraph (1); or

(b) being the proprietor of an independent school does any thing calculated to lead to the belief that the school is so registered whilst it is provisionally registered or not registered or that it is so provisionally registered whilst it is not provisionally registered;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(6) A person shall not be guilty of an offence under paragraph (5)(a) by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made within that period.

Complaints

39.—(1) If at any time the Department is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds—

(a) that the school premises or any parts thereof are unsuitable for a school;

(b) that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school;

(c) that efficient and suitable instruction is not being provided at the school having regard to the**[**[F56] ages, sex and abilities**]** of the pupils attending thereat;

(d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school, as the case may be;

[[F57](e) that there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by Article 176 of the Children (Northern Ireland) Order 1995 (welfare of children accommodated in schools);**]**

the Department shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of and, unless any such matters are stated in the notice to be in the opinion of the Department irremediable, the notice shall specify the measures necessary in the opinion of the Department to remedy the matters complained of and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

(2) If it is alleged by any notice of complaint served under this Article that any person employed as a teacher at the school is not a proper person to be employed in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation and a copy of the notice shall be served upon him.

(3) Every notice of complaint served under this Article and every copy of such a notice so served shall limit the time, not being less than one month after the service of the notice or copy, within which an appeal may be made against the notice in accordance with the provisions of Article 40.

F56 1996 NI 1
F57 1995 NI 2

Appeals against complaints

40.—(1) Any person upon whom a notice of complaint or a copy of such a notice is served under Article 39 may, within the time limited by the notice,**[**[F58] appeal therefrom to the Independent Schools Tribunal constituted in accordance with regulations under paragraph (8)**]**.

(2) **[**[F58]On any appeal under this Article, the independent schools tribunal**]** shall have power—

(a) to order that the complaint be annulled;

(b) to order that the school in respect of which the notice of complaint was served be struck off the register;

(c) to order that the school be so struck off unless the requirements of the notice, subject to such modifications, if any, as may be specified in the order, are complied with to the satisfaction of the Department before the expiration of such time as may be specified in the order;

(d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises is inadequate having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order;

(e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person from being the proprietor of any independent school or from being a teacher in any school, as the case may be.

(3) Where a notice of complaint has been served under this Order on the proprietor of any school and no appeal is made by him against the notice within the time limited in that behalf by the notice, the Department shall, subject to paragraph (4), have power to make any order which the**[**[F58] independent schools tribunal**]** would have had power to make if an appeal had been made against the notice.

(4) Where it was alleged by a notice of complaint that any person employed as a teacher at a school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, appealed to**[**[F58] the independent schools tribunal**]** against the notice, the Department shall not, unless the appeal is abandoned or not proceeded with, have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

(5) Where, by virtue of an order made**[**[F58] by the independent schools tribunal**]** or by the Department, any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

(6) Orders made by the Department under this Article shall not be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(7) Every order of**[**[F58] the independent schools tribunal**]** or of the Department made under this Article shall be registered by the Department and shall be open to public inspection at all reasonable times.

[[F58](8) The Department shall by regulations provide for the constitution and procedure of the Independent Schools Tribunal, and without prejudice to the generality of the foregoing such regulations—

(a) shall provide for the membership of the tribunal and may provide for disqualifying prescribed persons or descriptions of persons for membership of the tribunal;

(b) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the tribunal.

(9) The Department may—

(a) pay to members of the Independent Schools Tribunal such remuneration and expenses as it may, with the approval of the Department of Finance and Personnel, determine;

(b) defray the expenses of the tribunal to such amount as the Department may, with the approval of the Department of Finance and Personnel, determine;

(c) provide for the tribunal such staff and accommodation as the tribunal may require.**]**

F58 1996 NI 1

Enforcement

41.—(1) Where an order is made by the Department or by**[**[F59] the independent schools tribunal**]** directing that any school be struck off the register, the Department shall as from the date on which the direction takes effect strike the school off the register.

(2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under Article 40, that person shall be guilty of an offence and liable on summary

conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, whilst he is disqualified from so acting or from being so employed by virtue of any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(4) No proceedings shall be instituted for an offence against this Part except by or on behalf of the Department.

F59 1996 NI 1

Orders made under other enactments

42. For the purposes of the foregoing provisions of this Part, a person who is disqualified, by an order made under Part III of the Education Act 1944 or Part V of the Education (Scotland) Act 1980 or any other enactment of the Parliament of the United Kingdom having for the time being the like effect, from being the proprietor of an independent school or from being a teacher in any school, shall be deemed to be so disqualified by virtue of an order made under this Part.

Removal of disqualifications

43.—(1) If, on the application of any person, the Department is satisfied that any disqualification imposed by an order made under Article 40 is by reason of any change of circumstances no longer necessary, the Department may by order remove the disqualification.

(2) Any person who is aggrieved by the refusal of the Department to remove a disqualification so imposed may, within such time not being less than one month after the refusal has been communicated to him as shall be stated in the notice of refusal, appeal against the refusal to the**[**[F60] independent schools tribunal**]**.

F60 1996 NI 1

PART V

RIGHTS AND DUTIES OF PARENTS AND PROVISIONS RELATING TO INDIVIDUAL PUPILS

General

Pupils to be educated in accordance with wishes of their parents

44 [F61]**.** In the exercise and performance of all powers and duties conferred or imposed on them by**[**[F62] the Education Orders**]**, the Department and boards shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents.

F61 certain functions transf. by SR 1999/481

F62 1989 NI 20

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

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

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

[F63 Compulsory school age

46.—(1) Subject to the following provisions of this Article, in the Education Orders the expression "compulsory school age" means any age between four years and sixteen years and accordingly a person shall be of compulsory school age if he has attained the age of four years and has not attained the age of sixteen years.

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

(a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in that following year;

(b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the following year.

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

(a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the upper limit of compulsory school age until, or as the case may be, deemed to have attained that upper limit on 30th June in that following year or such other date as the Department may, by order subject to affirmative resolution, prescribe;

(b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the upper limit of compulsory school age until 30th June in the following year or such other date as the Department may, by order subject to affirmative resolution, prescribe.**]**

F63 1989 NI 20

Commencement of secondary education

46A.—[F64(1)**]** **[F64**Except as provided by paragraph (2), (3) or (4)**]**, a child shall commence secondary education—

(a) where he attains the age of eleven years on a date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, on 1st August in that following year;

(b) where he attains that age on a date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, on 1st August in the following year.

[F64](2) A child shall commence secondary education on 1st August next before his normal date of commencement where—

(a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that earlier date; and

(b) the parent of the child agrees with that opinion.

(3) A child shall commence secondary education on 1st August next after his normal date of commencement where—

(a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that later date; and

(b) the parent of the child agrees with that opinion.

(4) A child shall commence secondary education on 1st August next before or after his normal date of commencement where—

(a) the board for the area in which he resides so directs; and

(b) at the time the direction is given the child is not a registered pupil at any school.

(5) In forming an opinion for the purposes of paragraph (2) or (3) the Board of Governors of a school shall comply with the guidance issued under paragraph (6) and in particular—

(a) shall take into account such matters or matters of such description as may be specified in such guidance;

(b) shall not take into account such matters or matters of such description as may be so specified; and

(c) shall follow such administrative procedures as may be so specified.

(6) The Department shall issue such guidance as it thinks fit as to the exercise by a Board of Governors of its functions under this Article and such guidance shall in particular—

(a) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (2) or (3) to take into account the advice of the principal of the school (or, in the case of a grammar school providing both primary and secondary education, the teacher in charge of that part of the school in which primary education is provided);

(b) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (3) to take into account the advice of the relevant board;

(c) specify the matters or descriptions of matters which are, or are not, to be taken into account by a Board of Governors in forming an opinion for the purposes of paragraph (2) or (3);

(d) specify the administrative procedures to be followed by a Board of Governors in exercising its functions under this Article; and

(e) prohibit the delegation by the Board of Governors (notwithstanding anything in the scheme of management of the school) of such functions under this Article as are specified in the guidance.

(7) The Department shall issue such guidance as it thinks fit as to—

(a) the exercise by a board of its functions under paragraph (4); and

(b) the giving by a board of advice for the purposes of paragraph (6)(b).

(8) The Department shall publish the guidance issued by it under paragraphs (6) and (7) in such manner as it thinks fit.

(9) In this Article—

"appropriate Board of Governors", in relation to a child, means the Board of Governors of the school at which the child is a registered pupil;

"normal date of commencement", in relation to a child, means the date on which, but for any provision made under paragraph (2), (3) or (4), the child would commence secondary education;

"relevant board", in relation to the Board of Governors of a school, means—

(a) in the case of a controlled school, the board by which the school is managed;

(b) in the case of a maintained school, the board by which the school is maintained; and

(c) in the case of any other school, the board for the area in which the school is situated.

(10) This Article does not apply in relation to—

(a) children in respect of whom statements are maintained under Article 16 of the Education (Northern Ireland) Order 1996; or

(b) children in independent schools.**]**

F64 1996 NI 1

Presumption as to age

47. Where in any proceedings under**[**[F65] the Education Orders**]** other than a prosecution to which paragraph 4 of Schedule 13 applies, the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age and satisfies the court that, having used all reasonable diligence to obtain evidence as to the age of that person, he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over the age alleged.

F65 1989 NI 20

Registration of pupils at school

48.—(1) The proprietor of every school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars with respect to all persons[F66]. . . who are pupils at the school and regulations may—

(a) make provision for enabling the registers so kept to be inspected and extracts taken therefrom for the purposes of**[**[F67] the Education Orders**]** by persons duly authorised in that behalf under the regulations; and

(b) require persons by whom registers are so kept to make to the Department and to boards such periodical or other returns as to the contents thereof as may be prescribed.

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

(3) Regulations may prescribe the procedure by which a child may become a registered pupil at a school and the procedure by which a child may be withdrawn from a school at which he is a registered pupil[F68]. . . .

Para. (4) rep. by 1996 NI 1

F66 1987 NI 2
F67 1989 NI 20
F68 1996 NI 1

[F69Suspension 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;

[F70(da) [may provide for an appeal tribunal in considering an appeal to have regard in particular to any matters specified in the regulations;

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

(e) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by 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.**]**

F69 1993 NI 12
F70 2003 NI 12

Art. 49A rep. by 2003 NI 12

Provisions to assist persons to take advantage of educational facilities

Provision of awards by boards

Paras. (1), (2) rep. by 1998 NI 14

(3) A board may make such[F72]. . . awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them being awards of such amount, to, or in respect of, persons of such description and granted on such conditions as have been approved by the Department.

F71 certain functions transf. by SR 1999/481
F72 1998 NI 14

[[F73]Provision of awards by Department

51 [F74]**.**—(1) The Department may make—

(a) awards to, or in respect of, persons in respect of their attendance at—

(i) approved postgraduate courses at universities, colleges or other institutions; or

(ii) other approved courses, being courses which, in the opinion of the Department, are comparable to postgraduate courses; and

(b) such other awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them.

(2) Awards under this Article shall be of such amount, and be made to, or in respect of, such persons on such terms and conditions, as the Department may determine.**]**

F73 1996 NI 1
F74 certain functions transf. by SR 1999/481

[[F75]Provision of transport for, and payment of travelling expenses of, certain pupils

52 [F76]**.**—(1) A board shall make such arrangements for the provision of transport and otherwise as it considers necessary or as the Department may direct for the purpose of facilitating—

(a) the attendance of pupils at grant-aided schools; and

(b) the attendance of relevant pupils at institutions of further education;

and any transport provided under such arrangements shall be provided free of charge.

(2) Arrangements made by a board under paragraph (1) (other than arrangements made in pursuance of a direction of the Department) shall be subject to the approval of the Department.

(3) A board may, in accordance with arrangements approved by the Department, provide transport for, or pay the whole or part of the reasonable travelling expenses of—

(a) pupils attending grant-aided schools; and

(b) relevant pupils attending institutions of further education,

for whom the board is not required to make provision under arrangements made under paragraph (1).

(4) In paragraphs (1) and (3) "relevant pupils" means pupils of a class or description specified by the Department for the purposes of this Article.

(5) Any arrangements under paragraph (3) shall include provision—

(a) for the board to make charges (payable by the parents of the pupils concerned) in respect of transport provided under that paragraph; and

(b) as to the cases in which, and the extent to which, such charges are to be remitted by the board.

(6) With a view to assisting in the prevention of accidents, a board may carry into effect such measures as may be set out in a scheme framed by the board and approved by the Department.**]**

F75 1997 NI 5
F76 certain functions transf. by SR 1999/481

Provision of board and lodging otherwise than at school

53.—(1) Where a board is satisfied with respect to any pupil who has not attained the age of eighteen years and is ordinarily resident within its area—

(a) that primary or secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and

(b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

the board may provide such board and lodging for him.

(2) In providing board and lodging for a pupil under paragraph (1) a board shall, as far as practicable, give effect to the wishes of the parent of the pupil with respect to the religious denomination of the person with whom he is to reside.

(3) Where a board provides board and lodging under paragraph (1) for a pupil, the parent of the pupil shall, subject to paragraphs (4) and (5), pay to the board the cost to the board of providing the board and lodging.

(4) A board may remit the whole or part of the cost payable under paragraph (3).

(5) Paragraph (3) shall not apply where the board and lodging is provided for a pupil to facilitate special educational provision for him.

(6) Any sums payable to a board by virtue of paragraph (3) may be recovered summarily by the board as a debt due to it.

Payment of whole or part of cost of board and lodging otherwise than at school for pupils aged 18 and over

54. Where a board is satisfied with respect to any pupil who has attained the age of eighteen years and is ordinarily resident within its area—

(a) that secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and

(b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

the board—

(i) shall, in any case where the board and lodging is provided for a pupil to facilitate special educational provision for him, pay the whole of the cost of such board and lodging;

(ii) may, in any other case, pay the whole or part of the cost of such board and lodging.

Art. 55 rep. by 1997 NI 15

Art. 56 rep. by 1989 NI 20

Provision of books and materials and payment of examination fees by boards

Para. (1) rep. by 1989 NI 20

(2) A board may, with the approval of the Department, pay any necessary fees in connection with examinations taken by pupils attending any grant-aided school.

Provision of food and clothing

Provision of milk, meals and related facilities

58.—(1) A board shall, in accordance with arrangements approved by the Department, provide—

(a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at grant-aided schools, other than voluntary grammar schools**[**[F77] and grant#maintained integrated schools**]**[F77]. . . ;

(b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

Para. (2) rep. by 1997 NI 15

(3) A board may, with the consent of the proprietor of any independent school in its area, and on such financial and other terms, if any, as may be agreed between the board and the proprietor of the school, make arrangements for securing the provision of milk, meals or other refreshment for pupils in attendance at the school but any such arrangements shall be such as to secure, so far as is practicable, that the expense incurred by a board in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by it in the provision thereof if the pupil had been a pupil at a grant-aided school.

(4) A board may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine not being pupils for whom the board is required to make provision under paragraph (1) or may make provision under paragraph[F78]. . . (3).

(5) The trustees or Board of Governors of a voluntary grammar school**[**[F77] and the Board of Governors of a grant#maintained integrated school**]**[F77]. . . shall, in accordance with arrangements approved by the Department, provide—

(a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at the school;

(b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

(6) The trustees or Board of Governors of a voluntary grammar school**[**[F77] and the Board of Governors of a grant#maintained integrated school**]**[F77]. . . may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine, not being pupils for whom they are required to make provision under paragraph (5).

(7) A board may assist the trustees or Board of Governors of a voluntary grammar school**[**[F77] and the Board of Governors of a grant#maintained integrated school**]**[F77]. . . in the carrying out of their functions under paragraphs (5) and (6).

[[F77](8) Where a school has a delegated budget under[F79] Part V of the 1989 Order and an allowance is made for expenditure on, or in connection with, the provision of milk, meals or other refreshment in determining the school's budget share under that Part—

(a) paragraph (1) shall not apply in relation to pupils in attendance at the school; but

(b) paragraphs (5), (6) and (7) and Article 59 (except paragraph (4)) shall apply to the school as those provisions apply to a voluntary grammar school.**]**

F77 1989 NI 20
F78 1997 NI 15
F79 prosp. subst. by 1998 NI 13

Provisions supplementary to Article 58

59.—(1) The approval of the Department to any arrangements under paragraph (1),[F80]. . . (4), (5) or (6) of Article 58 may be granted subject to such conditions for securing the proper and efficient operation of those arrangements as the Department may determine.

(2) **[**[F81]A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant#maintained integrated school**]**[F81]. . . shall in connection with the exercise of any functions under Article 58—

(a) make such charges, if any, or charges calculated on such basis; and

(b) remit the whole or part of such charges in such cases or such circumstances,

as the Department may determine.

(3) The Department may, in such circumstances as it thinks fit,**[**[F81] direct—

(a) that paragraph (1) of Article 58 shall not apply to a board;

(b) that paragraph (5) of Article 58 shall not apply to the trustees or Board of Governors of a voluntary grammar school or to the Board of Governors of a grant#maintained integrated school.**]**

[F81] . . . .

(4) **[**[F81]A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant#maintained integrated school**]**[F81]. . . shall take such steps and provide such premises, equipment, materials and facilities (including transport) as are necessary in connection with the provision of milk, meals or other refreshment in accordance with Article 58.

(5) The trustees and managers of every voluntary school, other than a voluntary grammar school[F81]. . . , shall afford a board all such reasonable facilities at the school, including the use

of school buildings and equipment, as are necessary for the proper and efficient operation of any arrangements approved under Article 58.

F80 1997 NI 15
F81 1989 NI 20

Provision of clothing etc. for pupils attending grant-aided schools or institutions of further education

60 [F82]**.**—(1) Subject to a scheme which shall be framed by a board and approved by the Department, where it appears to the board that a pupil at a grant-aided school or institution of further education, being a pupil of such description as is specified in the scheme, is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided at the school or institution, the board shall provide such pupil with or contribute towards the cost of the provision of such clothing as is specified in the scheme and is in the opinion of the board necessary to ensure that he is adequately and suitably clad.

(2) A scheme under paragraph (1) shall also, subject to such conditions as are specified in the scheme, authorise a board to defray the expenses of such pupils attending the school or institution as are specified in the scheme being expenses which in the opinion of the board are necessary to enable those pupils to take part in the activities of the school or institution without hardship to themselves or to their parents.

(3) A board may, in accordance with the provisions of the scheme under paragraph (1), recover from the parent of a pupil the whole or part of the expenditure incurred under the scheme in respect of the pupil provided such recovery can be made without causing hardship to the parent.

(4) A parent who is aggrieved by any action taken by a board under a scheme under paragraph (1) may appeal to the Department whose decision shall be final.

(5) A board may lend to pupils without charge articles of clothing suitable for physical education.

F82 certain functions transf. by SR 1999/481

Medical and dental inspection and medical examination

Facilities for medical and dental inspection, etc.

61.—(1) Trustees and managers of grant-aided schools shall afford reasonable facilities for**[**[F83] such inspection, supervision and education as is provided for under paragraph (1) or (1A) of Article 9 of the Health and Personal Social Services (Northern Ireland) Order 1972**]**.
Para. (2) rep. by 1988 NI 24

F83 1988 NI 24

Power of Department as to medical examination

62 [F84]**.**—(1) Where, in the opinion of the Department the examination of a child or young person by a person appointed by the Department for the purpose would assist it to determine any question referred to it under**[**[F85] the Education Orders**]**, the Department may, by notice in writing served on the parent of the child or young person, require the parent to submit the child or young person for such an examination.

(2) The parent of a child or young person examined under paragraph (1) shall be entitled to be present at the examination if he so desires.

(3) Where a parent on whom a notice is served under paragraph (1) fails without reasonable excuse to comply with the requirements of the notice, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

F84 certain functions transf. by SR 1999/481
F85 1989 NI 20

Employment of children and young persons

Adaptation of enactments relating to the employment of children or young persons

63.—(1) For the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Order over compulsory school age shall be deemed to be a child within the meaning of that enactment.

(2) Notwithstanding the provisions of any other enactment, a child may, to the like extent and subject to the like conditions as a young person be employed in employment in pursuance of arrangements made or approved by a board for the purpose of giving that child work experience as part of his education**[**[F86] but may be so employed only—

(a) in the school year in which he ceases to be of compulsory school age; and

(b) in the school year immediately preceding that year.**]**

(3) In paragraph (2)—

Definition rep. by 1993 NI 12

Definition rep. by 1998 NI 13

[[F86]"school year" means a year ending on 31st July;**]**

"work experience" means the participation of children in employment in industrial, commercial, public authority and statutory undertakings, the object of which is to give to the children a greater understanding of the conditions, disciplines and relationships in those undertakings.

F86 1998 NI 13

Power of boards to prohibit or restrict employment of children

64.—(1) If it appears to a board that a child who is a registered pupil at a school is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the board may, by notice in writing served on the employer, prohibit him from employing the child or impose such restrictions on his employment of the child as appears to it to be expedient in the interests of the child.

(2) A board may, by notice in writing served on the parent or employer of a child who is a registered pupil at a school, require the parent or employer to furnish to the board, within such time as may be specified in the notice, such information as appears to the board to be necessary for the purpose of enabling it to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.

(3) Any person who employs a child in contravention of any prohibition or restriction imposed under paragraph (1) or who fails to comply with a notice served under paragraph (2) shall be guilty

of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(4) If it is made to appear to a court of summary jurisdiction on the complaint of an officer of a board that there is reasonable cause to believe that a child who is a registered pupil at a school is employed in contravention of a prohibition or restriction imposed under paragraph (1) in any place whether a building or not, the court may by order addressed to an officer of the board empower him to enter such place at any reasonable time within forty-eight hours of the making of the order and to make inquiries therein with respect to the child.

(5) Any person who obstructs an officer of a board in the due exercise of any powers conferred on him by or under this Article or who refuses to answer or answers falsely any inquiry authorised by or under this Article to be made shall be guilty of an offence and liable on summary conviction in respect of each offence to a fine not exceeding level 2 on the standard scale.

(6) Proceedings under this Article may be brought by or in the name of an officer of a board.

PART VI

TEACHERS

Employment of teachers by a board

65.—(1) A board may employ all such teachers as are required in schools[F87]. . . under its management and may, with the approval of the Department, employ teachers otherwise than on the staff of a particular school[F87]. . . .

(2) A teacher employed under paragraph (1) otherwise than on the staff of a particular school[F87]. . . shall be—

(a) a teacher (to be called a "peripatetic teacher") employed by a board to teach a particular subject or group of subjects in a number of schools[F87]. . . or otherwise than in a school[F87]. . . or a teacher employed by a board for the purpose of making special educational provision whether in a school or otherwise;[F88]. . .

Sub#para. (b) rep. by 1993 NI 12

[[F89](3) The number of peripatetic teachers employed by a board and the purposes for which they are employed shall be in accordance with arrangements made by the board and approved by the Department and a board shall not employ such teachers otherwise than in accordance with arrangements so made and approved.

(4) Peripatetic[F88]. . . teachers employed by a board may, with the approval of the board, work in a voluntary school or a grant#maintained integrated school if so requested by the managers of that school.**]**

F87 1997 NI 15
F88 1993 NI 12
F89 1989 NI 20

Training of teachers

66.—[[F90](1) The Department of Education shall make such arrangements as it considers expedient for securing the provision by others of sufficient facilities for the initial and further training of teachers for service in schools and other educational establishments in Northern Ireland.**]**

(2) **[**[F90]The Department of Education**]** may—

(a [F91] pay grants at such rate or of such amount and subject to such conditions as it may determine in respect of expenditure incurred or to be incurred by any persons in connection with the initial or further training of teachers, other than expenditure in respect of which a grant may be paid under paragraph (3);

(b) pay to teachers undergoing further training travelling and other allowances at such rate or of such amount and subject to such conditions as the Department may determine.

[[F90](2A) The Department for Employment and Learning may pay grants at such rate or of such amount and subject to such conditions as it may determine in respect of expenditure incurred or to be incurred by any person in connection with the initial or further training of teachers, other than expenditure in respect of which a grant may be paid under paragraph (3).**]**

(3 [F91] The Department may, in accordance with regulations, pay grants to the trustees of a college of education in respect of approved expenditure incurred or to be incurred for the provision or alteration of the premises of a college or for the provision of equipment for a college.

[[F92](4 [F91] Regulations under paragraph (3) 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 by 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 college of education in respect of which the Department has, at any time after 1st. August 1984, paid a grant under paragraph (3), cease to be used for approved purposes of a college of education; or

(ii) any site in respect of which the Department has, at any time after that date, paid a grant under paragraph (3), ceases, in the opinion of the Department, to be required for the purposes of a college of education.

(5 [F91] Without prejudice to the generality of paragraph (4), regulations under paragraph (3) 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 this paragraph.**]**

F90 2005 NI 13
F91 certain functions transf. by SR 1999/481
F92 1993 NI 12

Modifications etc. (not altering text)

C4 Art. 66(2) modified (13.2.2006) by Higher Education (Northern Ireland) Order 2005 (S.I. 2005/1116 (N.I. 5)), arts. 1(3), 4(1)(a); S.R. 2006/30, **art. 2**

Control of numbers, qualifications, etc. of students

67.—(1 [F93] **[**[F94]The Department of Education**]** shall make such arrangements as it considers expedient for the determination of the numbers and qualifications and for the selection of students to be admitted to the initial and further training of teachers.

(2) The managers or governing body of an institution providing courses for the initial or further training of teachers shall not admit a student to a course for the initial training of teachers unless satisfied—

(a) as to his good character and health, his physical capacity for teaching and his suitability for the teaching profession in other respects; and

(b) that he satisfies the minimum educational qualifications for the course determined under paragraph (1).

(3) The managers of a college of education[F95]. . . shall comply with any directions of the Department, given after consultation with them, as to—

(a) the total number of students to be admitted in any period specified in the directions to all such courses provided by them;

(b) the number of students to be admitted in any period specified in the directions to any particular course so specified; and

(c) the discontinuance of any particular course so specified.

F93 certain functions transf. by SR 1999/481
F94 2005 NI 13
F95 1997 NI 15

[F96]*Appointment of teachers*

68. The provisions of Parts I and II of Schedule 14 shall apply to the appointment of a teacher to a controlled school and the provisions of Part III of that Schedule shall apply to the appointment of a peripatetic teacher or a supply teacher.

F96 prosp. rep. by 1989 NI 20

[[F97]**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;

Sub#para. (b) rep. by 1997 NI 15

(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[F98]. . . , 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.
*Para. (8) rep. by 1998 NI 13***]**

F97 1993 NI 12
F98 1997 NI 15

[[F99F100]Payment of salaries, etc. of teachers

69A.—(1) Except where regulations otherwise provide, the Department shall pay—

(a) the salaries and allowances (if any) of—

(i) teachers employed by the Board of Governors of a voluntary grammar school;

(ii) teachers employed by the Board of Governors of a grantmaintained integrated school; and

(b) secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 and employers' superannuation contributions in respect of such teachers.

(2) Except where regulations otherwise provide, the Department shall, on behalf of a board, issue payment of—

(a) the salaries and allowances (if any) of—

(i) teachers employed by the board;

(ii) teachers employed on the sta of a maintained school maintained by the board;

Head (iii) rep. by 1993 NI 12

(b) secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 and employers' superannuation contributions in respect of such teachers.

Para. (3) rep. by 1993 NI 12

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

F99 1989 NI 20
F100 prosp. rep. by 1998 NI 13

[F101 Regulations as to employment of teachers

70 F102**.**—(1) The Department may make regulations as to—

(a) the eligibility of persons to be employed as teachers;F103. . .

Sub#para. (b) rep. by 1993 NI 12

(2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may include provision—

(a) requiring teachers to have such qualifications as may be approved by the Department;

(b) requiring that, subject to such exceptions as may be prescribed, only teachers recognised by the Department be employed as teachers and providing for the grant, suspension, withdrawal and restoration of such recognition;

(c) requiring teachers to serve probationary periods;

(d) imposing requirements as to the age, health and physical capacity of teachers;

(e) prohibiting or restricting the employment or further employment of teachers

F104(i) **[** on medical grounds;

(ii) on the grounds of misconduct;

(iii) on the grounds that the persons concerned are unsuitable to work with children;

(iv) on the grounds that the persons concerned are included (other than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003; or

(v) on educational grounds**]**

.

[

F105(2A) Regulations under paragraph (1) may provide for the payment by the Department of any reasonable expenses incurred by a teacher in connection with any medical examination undergone by that teacher in pursuance of a requirement imposed by the Department under those regulations.**]**

Para. (3) rep. by 1993 NI 12

(4) This Article applies to—

F106(a) teachers in grant-aided schools;

(b) teachers in institutions of further education;

F106(c) peripatetic teachers;F103. . .

*Sub#para. (d) rep. by 1993 NI 12***]**

F101 1987 NI 2
F102 certain functions transf. by SR 1999/481
F103 1993 NI 12
F104 2003 NI 4
F105 1989 NI 20
F106 prosp. rep. by 1998 NI 13

Interchange of teachers with teachers outside Northern Ireland

71 [F107]**.** The Department may make regulations enabling teachers in grant-aided schools or institutions of further education or colleges of education to interchange duty with teachers from any country outside Northern Ireland and such regulations may, in connection with any period of interchange, make such provision as the Department considers appropriate in relation to such teachers as are specified in the regulations.

F107 certain functions transf. by SR 1999/481

[[F108F109]Redundancy payments to teachers in certain voluntary schools and in grant#maintained integrated schools

Para. (1) rep. by 1996 NI 1

(2) Where the Board of Governors of a grant#maintained integrated school has made a redundancy payment[F110]. . . to a teacher who has been employed by it, the Department may pay to the Board of Governors a sum equal to the amount of the sum paid by the Board of Governors[F110]. . . .

(3) The duty of a board under Article 59(1)(d) of the 1989 Order to meet the cost 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;

(b) the Board of Governors of the school, in any other case,

a sum equal to the amount of the redundancy payment[F110]. . . .
Para. (4) rep. by 1993 NI 12

[
[F110](5) In this Article "redundancy payment" has the same meaning as in the Employment Rights (Northern Ireland) Order 1996**]]**

F108 1989 NI 20
F109 prosp. rep. by 1998 NI 13
F110 1996 NI 16

[F111]PART VII

LIBRARY SERVICES

F111 Pt. VII repealed (prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), **Sch. 4**

Provision of library services by boards

73 [F112]**.**—(1) It shall be the duty of each board to provide a comprehensive and efficient library service for persons living or working or undertaking courses of education in its area and a board may provide a library service for persons other than those for whom it has a duty to provide the service.

(2) Without prejudice to the generality of paragraph (1), each board shall make library services available to grant-aided schools and other grant-aided educational establishments**[**[F113] (other than institutions of further education)**]** in its area.

(3) For the purpose of carrying out its functions under paragraph (1), a board shall have regard to the desirability—

(a) of securing that facilities are available for the borrowing of, or reference to,**[**[F114] library materials**]** sufficient in number, range and quality to meet the general and any special requirements of adults and children and of doing so whether by keeping adequate stocks, by arrangements with other boards or with bodies other than boards concerned with library services and by any other appropriate means;

(b) of encouraging both adults and children to make full use of the library service;

(c) of providing advice as to the use of the library service and making available such bibliographical and other information as may be required by persons using the service.

(4) Each board

(a) shall make suitable arrangements for co-operating with any other board or boards for the purpose of enabling itself or the other board or boards to carry out its or their functions more effectively; and

(b) may, either alone or in conjunction with another board or other boards, make such arrangements with bodies other than boards whether inside or outside Northern Ireland as are practicable and which it considers necessary in order to enable it to carry out its functions under paragraph (1) more effectively.

F112 certain functions transf. by SR 1999/481
F113 1997 NI 15
F114 1993 NI 12

Development schemes

74 [F115]**.**—(1) A development scheme for library services within the area of a board which has been approved by the Department under Article 62 of the 1972 Order shall, subject to the following provisions of this Article, continue to have effect.

(2) A library committee may at any time and shall, if the Department directs the board that the library committee should do so, prepare and submit to the board a revised development scheme for library services within the area of the board or an amendment to an existing scheme and where the board approves with or without amendment such a revised development scheme or amendment to an existing scheme, it shall submit it to the Department.

(3) A revised development scheme or an amendment to an existing scheme shall be in such form and contain such information as the Department may direct.

(4) The Department may approve with or without modification a revised development scheme or an amendment to an existing scheme submitted to it under this Article.

(5) Subject to any directions of the Department, it shall be the duty of a board to carry out the provisions of any scheme, or any amendment to a scheme, for its area which has been approved by the Department under this Article or the said Article 62.

F115 certain functions transf. by SR 1999/481

Standards of library premises

75 [F116]**.** Each board shall secure that**[**[F117] its library premises**]** conform to such standards as the Department may direct.

F116 certain functions transf. by SR 1999/481
F117 1993 NI 12

Contributions between boards in respect of library services

76 [F118]**.**—(1) Where a board provides library services for or on behalf of another board, that other board shall pay such a contribution, if any, to the board providing the services as may be agreed between the boards.

(2) A board shall, before providing library services for or on behalf of another board, obtain the consent of that other board.

(3) Any dispute between boards regarding a contribution to be made from one board to another shall be referred to and determined by the Department whose determination shall be final.

F118 certain functions transf. by SR 1999/481

[[F119]*Charges for library services*

77 [F120]**.**—(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.

Para. (3) rep. by SI 1996/2967

(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;

"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 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

(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.**]**

F119 1993 NI 12
F120 certain functions transf. by SR 1999/481

Bye-laws in respect of use of library facilities

78 [F121]**.**—(1) A board may from time to time make bye-laws regulating the use of library facilities provided or maintained by the board under this Order and the conduct of persons in**[**[F122] the library premises of the board**]**.

(2) Without prejudice to the generality of paragraph (1), bye-laws made thereunder may include provisions for enabling officers of the board to exclude or remove from**[**[F122] library premises of the board**]** any person who contravenes the bye-laws.

F121 certain functions transf. by SR 1999/481
F122 1993 NI 12

[[F123]**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.**]**

F123 1993 NI 12

PART VIII

ADMINISTRATION AND FINANCE

Administration

Payments to members of boards, etc.

79.—(1) A board shall make payments by way of travelling allowance or subsistence allowance,[F124]. . . to any member of the board or of a committee of the board or a sub-committee thereof who necessarily incurs expenditure on travelling or, as the case may be, subsistence for the purpose of enabling him to perform any duty specified in the conditions.

[[F124](1A) Payments under paragraph (1) shall be made at such rates and on such conditions as may be—

(a) determined by the board; and

(b) approved by the Department.**]**

(2) Paragraph (1) shall apply to members of**[**[F125], or of a committee of,**]**

(a) a Board of Governors of a controlled school;

(b) a Board of Governors of a maintained school;[F126]. . .

Sub#para. (c) rep. by 1997 NI 15

in like manner as it applies to members of a board.

(3) A board shall make payments to—

(a) the chairman of the board for or in relation to his functions as chairman of the board, of amounts or at rates not exceeding such amounts or rates and on such conditions as the Department, with the approval of the Department of Finance and Personnel, may determine;

(b) the members of the board for or in relation to their functions as members of the board, of amounts or at rates not exceeding such amounts or rates and on such conditions as the Department may determine.

F124 2003 NI 12
F125 1989 NI 20
F126 1997 NI 15

Modifications etc. (not altering text)

C5 Art. 79(1) applied (27.7.2006 for certain purposes, otherwise 1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2)(3)(b), **25(11)** (with art. 26)

Payments in respect of official visits, etc.

80.—[[F127](1) A board may—

(a) defray any travelling or other expenses reasonably incurred by any person in making official visits, whether inside or outside the United Kingdom, on behalf of the board;

(b) defray any expenses reasonably incurred in the reception and entertainment of distinguished persons residing in or visiting the area of the board and persons representative of or connected with any public service whether inside or outside the United Kingdom and in the supply of information to such persons.]

[[F127](2) Payments under paragraph (1)(a) shall be made at such rates and on such conditions as may be—

(a) determined by the board, after consultation with the Staff Commission; and

(b) approved by the Department.]

F127 2003 NI 12

Members of a board not to be employed as paid officers of the board

81. A person shall, so long as he is, and for twelve months after he has ceased to be, a member of a board, be disqualified for being employed by the board as a paid officer.

The Staff Commission

82.—(1) There shall be a body to be known as the Staff Commission for Education and Library Boards (in this Order referred to as "the Staff Commission") for the purposes of exercising general oversight of matters connected with the recruitment, training and terms and conditions of employment of officers of boards and of making recommendations to boards on such matters.

(2) The provisions of Schedule 15 shall apply to the constitution, appointment and functions of the Staff Commission.

(3) The Department may by order subject to affirmative resolution make provision for modifying the functions of the Staff Commission or for its amalgamation with one or more bodies having similar functions, and such an order may modify or repeal any provision of this Article or Schedule 15.

(4) In paragraph (3) "modify" has the meaning assigned to it by section 148(1) of the Local Government Act (Northern Ireland) 1972.

[[F128]Officers of boards

83.—(1) A board shall appoint a fit person to be—

(a) the chief executive of the board who shall also be the chief education officer of the board and act as secretary to the board; and

(b) the chief librarian of the board who shall also act as secretary to the library committee of the board.

(2) In connection with making an appointment to any post under paragraph (1), a board shall consult the Staff Commission as to—

(a) the qualifications and previous experience to be required of candidates for appointment;

(b) the arrangements for advertising the post; and

(c) the terms and conditions on which the appointment is to be made.

(3) A board shall not appoint—

(a) a person as chief executive unless the Department approves the appointment;

(b) a person as chief librarian unless the Department of Culture, Arts and Leisure approves the appointment.

(4) In order to obtain such approval, the board shall send to the department concerned the names, qualifications and previous experience of those applicants considered by the board to be suitable for appointment, indicating the name of the person whom the board proposes to appoint.

(5) Where a board makes an appointment under paragraph (1) it shall notify each of the funding departments of—

(a) the name of the person appointed; and

(b) the date on which the appointment is to take effect.

(6) The Department may direct that the terms and conditions relating to remuneration of—

(a) chief executives and chief librarians of boards; and

(b) other officers of boards of such class or description as may be specified in the direction,

shall not be fixed or altered without the approval of the Department.

(7) Before granting its approval under paragraph (6), the Department shall consult the Staff Commission.

(8) Two or more boards may arrange for the appointment of the same person to be an officer of both or all those boards; but the boards concerned shall notify each of the funding departments of any such arrangement.**]**

F128 2003 NI 12

Loans to officers for purchase of motor cars and motor cycles

84.—(1) For the purpose of facilitating officers of the board in the purchase of motor cars and motor cycles essential to the efficient carrying out of their official duties, a board may make loans to officers of the board on such conditions and at such rates of interest as the Department may, with the approval of the Department of Finance and Personnel, determine.

(2) Such loans shall be made in accordance with a scheme prepared by the board and approved by the Department and shall be made only to such officers or officers of such description as are specified in the scheme.

Prohibition of acceptance of unauthorised fee or reward and duty to disclose pecuniary interest

85.—(1) An officer of a board shall not, under colour of his office or employment, exact or accept (whether directly or indirectly for himself or for or through another) any fee or reward other than his proper remuneration and any person who acts in contravention of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Sections 46 and 146 of the Local Government Act (Northern Ireland) 1972 (duty of officers to disclose pecuniary interest and interpretation) shall apply to officers of a board in like manner as they apply to officers of a district council but with the substitution for references to a district council, councillors and clerk of a council of references to a board, members of a board and chief officer of a board respectively.

Insurance against risks by boards

86.—**[**[F129](1)**]** A board may, and if so directed by the Department shall, insure against such risks in connection with any of the functions of the board as the board or the Department considers necessary.

[[F129](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;[F130]. . .

Sub#para. (b) rep. by 1997 NI 15

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

F129 1993 NI 12
F130 1997 NI 15

Protection for officers acting in execution of duty

87.—(1) An officer of a board shall not be personally liable in respect of any act done by him in the execution of any statutory provision relating to a function of the board and within the scope of his employment if he acted reasonably and in the honest belief that his duty under the statutory provision required or empowered him to do it but nothing in this paragraph shall be construed as relieving a board of any liability in respect of acts of its officers.

(2) Where an action is brought against an officer of a board in respect of an act done by him in the execution or purported execution of any such statutory duty as aforesaid and the circumstances are such that he is not legally entitled to require the board to indemnify him, the board may nevertheless indemnify him against the whole or a part of any damages or costs which he may have been ordered to pay or may have incurred, if the board is satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under the statutory provision required or empowered him to do it.

Appointment of non-teaching staff for controlled and maintained schools

88.—(1) Where it is necessary to appoint staff**[**[F131] to which this paragraph applies for**]** a controlled school or a maintained school, the board which manages the controlled school or, as the case may be, is responsible for the maintenance of the maintained school shall furnish to the Board of Governors of the school the names of all applicants for appointment whom the board considers to be qualified and the Board of Governors may select from the names so furnished to it the person or, where more than one person is to be appointed, the requisite number of persons whom it recommends for appointment and shall inform the board of the name or names of the person or persons so selected.

[[F131](1A) Paragraph (1) applies to all staff required**[**[F132] by a board**]** in or about a controlled or maintained school, except—

(a) teachers;

(b) in the case of a school to which paragraph (1B) applies, persons employed in connection with the provision of a schools meals service.

(1B) This paragraph applies to a school which—

(a) does not have a delegated budget under[F133] Part V of the 1989 Order; or

(b) has such a budget, but no allowance is made for expenditure on or in connection with the provision of a school meals service in determining the school's budget share under that Part.**]**

(2) Where a Board of Governors informs the board of the name of the person or, as the case may be, the names of the requisite number of persons whom it has selected under paragraph (1), the board shall appoint that person or those persons.

(3) Where a Board of Governors to whom names of applicants are furnished under paragraph (1) fails within a reasonable time to inform the board of the name of the person or, as the case may be, the names of the requisite number of persons whom it recommends for appointment, the board may either—

(a) seek further applications and comply again with paragraph (1); or

(b) with the approval of the Department, appoint one or, as the case may be, the requisite number of persons from the qualified applicants.

(4) This Article shall not apply where, after consultation with the Board of Governors, the board is of opinion that a service or services for the internal or external maintenance of the premises of the school can best be provided—

(a) by a person or group of persons employed by the board to perform that service or those services in a number of schools which are not all under the management of the same Board of Governors;

(b) by the placing by the board of a contract, in accordance with its regular procedure for placing contracts, for the doing of anything relating to its functions in relation to a controlled school or a maintained school which is of a nature ordinarily done by employing a contractor.

(5) A Board of Governors aggrieved by any action of a board under paragraph (4) may refer the matter to the Department for determination.

(6) The functions of a Board of Governors under this Article shall**[**[F131] be carried out on behalf of, and in the name of, the board**]**.

F131 1989 NI 20
F132 1997 NI 5
F133 prosp. subst. by 1998 NI 13

[[F134]*Regulations as to employment of certain non#teaching staff*

88A [F135]**.**—(1) The Department may make regulations as to—

(a) the eligibility for employment of persons to whom this Article applies; and

(b) the terms and conditions of employment of such persons.

(2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may include provision—

(a) for imposing requirements as to the health and physical capacity of persons to whom this Article applies;

(b) for prohibiting or restricting the employment or further employment of such persons

[F136]**[** (i) on medical grounds;

(ii) on the grounds of misconduct;

(iii) on the grounds that the persons concerned are unsuitable to work with children; or

(iv) on the grounds that the persons concerned are included (other than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003**]**

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(3) This Article applies to persons employed by a board**[**[F137] or by the governing body of an institution of further education**]** or by the managers of**[**[F138] a grant#maintained integrated school or of**]** a voluntary school (other than a maintained school) in work otherwise than as teachers which brings them regularly into contact with persons who have not attained the age of nineteen years.**]**

F134 1987 NI 2
F135 certain functions transf. by SR 1999/481
F136 2003 NI 4
F137 1997 NI 15
F138 1989 NI 20

Provision of residences by boards

89.—(1) A board may, with the approval of the Department, provide and maintain or maintain a house or other residence for—

(a) a teacher employed by the board;

(b) a caretaker, groundsman or other person employed by the board in connection with a school or institution managed by the board or a maintained school or any premises or property used by the board for educational purposes or purposes connected therewith;

and for that purpose may erect a dwelling-house or other residence or acquire, and if necessary enlarge or improve, an existing dwelling-house or other residence.

(2) The trustees of a maintained school may, notwithstanding anything in any instrument of government of the school, lease part of the land used for the school to a board for the purposes of paragraph (1)(b).

(3) Where a board provides and maintains or maintains a house or residence under paragraph (1) the board may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(4) Where a board provides and maintains or maintains a house or residence under paragraph (1), the board may permit the house or residence to be occupied by any person when it is not required for a person mentioned in paragraph (1) and may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(5) A board may,**[**[F139] subject to paragraph (5A)**]**, recover possession of any house or residence provided or maintained by it under the foregoing provisions of this Article and where the house or residence is vested in the Department may act on behalf of the Department in the recovery of such possession.

[[F139](5A) A board shall, before proceeding to recover possession of any house or residence provided and maintained or maintained as mentioned in paragraph (1)(a), give six months notice to the occupant.**]**

(6) Where a board is entitled by virtue of paragraph (5) to recover possession of any premises, the following provisions shall have effect in relation to those premises—

(a) the Rent (Northern Ireland) Order 1978 shall not apply;

(b) the board may, notwithstanding any enactment or rule of law and without prejudice to any other method of recovery, proceed under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981 for the summary recovery of the premises and for the purposes of any such proceedings that Part shall have effect as if the board were the owner of the premises and the teacher or other person in possession thereof was a person who had been put into such possession by permission of the owner as caretaker.

F139 1987 NI 2

Teachers' residences provided etc. by statutory loan prior to 1st February 1922

90.—(1) In this Article—

"statutory loan" means a loan made before the 1st February 1922 under the National School Teachers' Residences (Ireland) Act 1875;

"teacher's residence" means premises provided, erected, structurally improved or purchased by means of a statutory loan;

"trustees", in a case where a teacher's residence was, before 1st October 1973, transferred to a former local education authority, includes the Department or a board where the teacher's residence has become vested in it under this Order.

(2) A teacher in occupation of a teacher's residence shall, during the period of the repayment of the statutory loan and thereafter during the estate of the trustees, be required to pay to the trustees or, where the Department is the trustees, to the board responsible for maintaining the residence such sum as the Department may approve.

(3) Where a teacher's residence was provided in connection with a particular school and is not required for the use of a teacher in that school, the trustees or, where the Department is the trustees, the board responsible for maintaining the residence may, with the approval of the Department, permit some other person to occupy it and the board may charge the person occupying the residence such sums, if any, as the Department may approve.

(4) The trustees may recover possession of a teacher's residence on giving six months' notice in writing to the teacher or other person occupying the residence and where the Department is the trustees a board may, at the Department's request, act on behalf of the Department in effecting the recovery of the residence.

(5) In relation to a teacher's residence—

(a) the Rent (Northern Ireland) Order 1978 shall not apply; and

(b) the trustees or a board may, notwithstanding any enactment or rule of law and without prejudice to any other method of recovery, proceed under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981 for the summary recovery of the residence and for the purposes of any such proceedings that Part shall have effect as if the trustees or the board were the owner of the residence and the teacher or other person in possession thereof were a person who had been put into such possession by permission of the owner as caretaker.

(6) Subject to the provisions of this Article, a teacher's residence shall, notwithstanding the completion of the repayment of any statutory loan by means of which the residence was provided, continue to be held during the term of the estate of the trustees, upon the same trusts and conditions as it was held during the period of repayment, and any arrangement made under Article 17 and Schedule 9 with respect to a teacher's residence shall provide accordingly.

(7 [F140] Where the Department of Finance and Personnel is satisfied that a teacher's residence which is held by trustees for an estate not limited by reference to any condition as to user is no

longer required for occupation by a teacher in connection with any school, it may, notwithstanding the provisions of paragraph (6), authorise the sale of the teacher's residence and—

(a) a sale so authorised shall have effect as if authorised under section 18 of the Charities Act (Northern Ireland) 1964; and

(b) the provisions of section 13 of that Act shall apply to the proceeds of such sale irrespective of the amount thereof.

F140 functions transf. by SR 1999/481

Art. 91 rep. by 1989 NI 20

[F141 Use of spare capacity of computers of board

91A.—(1) If a board—

(a) has provided a computer for the purpose of enabling the board to perform any of its functions other than functions under this Article; and

(b) considers that the computer can, without detriment to its use for that purpose, be used for the benefit of the board in pursuance of the following provisions of this Article,

the board may enter into agreements with other persons for the provision by the board of facilities for using the computer or of services provided by means of the computer.

(2) An agreement in pursuance of this Article may contain such terms as to payment or otherwise as the parties consider appropriate; and it shall be the duty of a board, in settling the terms of such an agreement, to ensure that they are terms on which the board considers that a person other than a board could reasonably be expected to provide the facilities or services in question.

(3) In this Article "computer" means any device for storing and processing information.**]**

F141 1987 NI 2

Power of boards as to research and conferences

92.—**[F142**(1) A board may, in connection with the exercise of any of its functions under the Education Orders, either alone or together with any other board or person,—

(a) carry out, or commission, or assist in any way, the carrying out by any other body or person of, any programme of research and development;

(b) carry out any project appearing to the board to be associated with the provision of educational or library services or recreational, social, cultural, physical or youth service activities or services ancillary to education.

(1A) A board shall—

(a) notify the Northern Ireland**[F143** Council for the Curriculum, Examinations and Assessment**]** of its intention to exercise any of its powers under paragraph (1) in relation to any matter concerned with the curriculum for grantaided schools;

(b) provide the Council with such reports in connection with the exercise of that power as the Council may reasonably request.**]**

(2) A board may—

(a) organise, or participate in the organisation of, conferences for the discussion of questions relating to any of its functions under**[F142** the Education Orders**]** and may incur such expenditure as may be reasonable in paying or contributing towards any expenses incurred

in connection with any conferences so organised by the board or in which the board so participates;

(b) [F144]. . . defray or contribute towards the expenses reasonably incurred by any person authorised by it to attend any conference for the discussion of questions relating to any of its functions under**[**[F142] the Education Orders**]**, other than expenses in respect of which payment may be made under Article 79.

[[F144](3) Payments under paragraph (2)(b) shall be made at such rates and on such conditions as may be—

(a) determined by the board, after consultation with the Staff Commission; and

(b) approved by the Department.**]**

F142 1989 NI 20
F143 1993 NI 12
F144 2003 NI 12

Contributions to certain bodies

93. Subject to any direction which may be given by the Department, a board may either alone or together with another board or other boards defray or contribute towards the expenses of bodies into which the board is affiliated or of which the board is a member.

Making of bye-laws by boards

94.—(1) It shall be the duty of each board to make bye-laws providing for any matter required by this Order to be so provided and to enforce bye-laws made by it under this Order.

(2) Bye-laws made under this Order may provide for the imposing on persons contravening the bye-laws reasonable fines, recoverable on summary conviction, not exceeding level 2 on the standard scale and in the case of a continuing offence £2 for each day on which the offence continues after conviction.

(3) A bye-law made under this Order shall not come into operation until it has been confirmed by the Department.

(4) A board not less than one month before submitting a proposed bye-law for the confirmation of the Department shall—

(a) deposit a draft of the proposed bye-law at the headquarters of the board and at such other place or places as the Department may direct;

(b) publish notice of the deposit in accordance with the provisions of Article 129;

(c) permit any person to inspect the deposited copy at all reasonable times without payment;

(d) furnish to any person, on application, a copy of the proposed bye-law, or of any part thereof, on payment of such reasonable sum as the board may determine.

(5) The Department before confirming a bye-law shall be satisfied that the provisions of paragraph (4)(a) and (b) have been complied with and shall cause such inquiry, if any, to be made in the area of the board making the bye-law as the Department thinks requisite.

(6) A copy of bye-laws when confirmed shall be printed and deposited at the headquarters of the board by which the bye-laws were made and in such other place or places as the Department may direct and shall at all reasonable hours be open to public inspection without payment and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as the board determines.

(7) A copy of any bye-law made by a board under this Order certified and signed by the**[**[F145] chief executive**]** of the board or, in his absence, such other officer as the board authorises to be a true copy and to have been duly confirmed shall, until the contrary is proved, be evidence in all legal proceedings of the due making, confirmation and existence of such bye-law without further or other proof.

F145 1989 NI 20

Admission of public to, and facilities for newspaper representatives at, meetings of boards

95.—(1) Subject to paragraphs (2) and (5), every meeting of a board shall be open to the public.

(2) A board may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings at the meeting) whenever publicity would be prejudicial to the public interest—

(a) by reason of the confidential nature of the business to be transacted at the meeting; or

(b) for such special reasons as may be specified in the resolution being reasons arising from the nature of the business to be transacted or of the proceedings at the meeting.

(3) Without prejudice to the generality of paragraph (2)(b), a board may treat the need to receive or consider recommendations or advice from sources other than members of the board or committees of the board or sub-committees thereof as a special reason for the purposes of that paragraph without regard to the subject or purport of the recommendations or advice.

(4) Subject to paragraph (5), at all times during which a meeting of the board is required by this Article to be open to the public, the board shall, so far as practicable cause to be made available to duly accredited representatives of newspapers attending for the purpose of reporting proceedings at the meeting reasonable facilities for taking reports of those proceedings and, on payment by those representatives or their newspapers of any expenses which may be incurred, for transmitting such reports to their newspapers.

(5) Nothing in paragraph (1) or (4) shall—

(a) affect or derogate from any power of excluding persons from a meeting for the purpose of suppressing or preventing disorderly conduct or other misbehaviour at, or disturbance of, the meeting; or

(b) require a board to permit the taking of photographs of any proceedings or the use of any means to enable persons not present at the meeting to see or hear any of the proceedings (whether at the time or later) or the making of any oral report on any proceedings as they take place.

(6) Where, at a meeting of a board, the board resolves itself into committee, the proceedings in committee shall for the purposes of this Article, be treated as forming part of the proceedings of the board at that meeting.

(7) This Article shall apply to meetings of a committee of a board other than a teaching appointments committee or a committee which is not authorised to perform functions on behalf of, or in the name of, the board as it applies to meetings of a board but shall not apply to meetings of a sub-committee.

Notice and information to be given as to meetings of boards

96. Where a meeting of a board or committee of a board is required by Article 95 to be open to the public during the whole or any part of the proceedings at the meeting, the board or committee shall—

(a) cause a notice stating the time and place at which the meeting is to be held to be posted in a conspicuous place at the offices of the board two days at least before the meeting or, if the meeting is convened at shorter notice, at the time it is convened; and

(b) if so requested by or on behalf of a newspaper and on payment by or on behalf of that newspaper of postage or other necessary expenses which may be incurred for transmission, supply for the benefit of that newspaper—

(i) a copy of the agenda as circulated to members of the board or committee with the omission of any items during the proceedings on which the meeting is likely not to be open to the public; and

(ii) such further statement or particulars and copies of such other documents as are necessary to indicate the nature of any item included in the copy of the agenda so supplied.

Certain publications to be privileged

97.—(1) Where a board or committee of a board supplies to any member of the public attending a meeting of the board or a committee thereof or, pursuant to paragraph (b) of Article 96, supplies for the benefit of a newspaper copies of the agenda, statements, particulars or copies of other documents mentioned in that paragraph, the publication of any defamatory matter contained in the agenda, statement, particulars or documents so supplied shall be privileged unless the publication is proved to be made with malice.

(2) **[**[F146] In the Schedule to the Defamation Act (Northern Ireland) 1955 (by virtue of which, among other things, newspaper reports of all proceedings at meetings of local authorities and their committees are privileged unless admission to the meeting is denied to representatives of newspapers and other members of the public) references to a local authority shall be deemed to include a reference to a board or a committee of a board.**]**

F146 Art. 97(2) repealed (4.9.1996 so far as consequential on ss. 1, 6, 12(3), 13, 16 of the repealing Act and at 1.4.1999 so far as consequential on ss. 14, 15, 17, Sch. 1 otherwise prosp.) by 1996 c. 31, s. 16, 19(2), **Sch. 2** (with s. 20(2)); S.I. 1999/817, **art. 2**

Inspection of minutes of proceedings of boards

98. The minutes of the proceedings of a board or any committee thereof shall be open at all reasonable hours for inspection without payment by any person and a person inspecting the minutes may make a copy of, or of any part of, the minutes.

Determination of disputes between boards

99 [F147]**.** Any dispute arising between boards as to their respective functions under**[**[F148] the Education Orders**]** shall be referred to the Department and any such dispute so referred shall be determined by the Department whose determination shall be final.

F147 certain functions transf. by SR 1999/481
F148 1989 NI 20

[[F149]*Determination of disputes*

100. Any dispute arising between—

(a) a board and the trustees or managers of a voluntary school;

(b) a board and the Board of Governors of a grant#maintained integrated school;

[F150(bb F151 a board and the governing body of an institution of further education;**]**

(c) a board and the Council for Catholic Maintained Schools; or

(d) the Council for Catholic Maintained Schools and the trustees or managers of a Catholic maintained school,

with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent on the opinion of one of the parties to the dispute, be referred by either party to the dispute to the Department and any dispute so referred shall be determined by the Department whose determination shall be final.**]**

F149 1989 NI 20
F150 1997 NI 15
F151 certain functions transf. by SR 1999/481

[F152 Power of Department to give directions

101 F153**.**—(1) The Department may give directions to any relevant authority as to the exercise by that authority of any power conferred, or the performance of any duty imposed, on that authority by or under any provision of the Education Orders; but the Department shall consult with a relevant authority before giving any directions to the authority under this paragraph.

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may—

(a) require a specified power—

(i) to be exercised;

(ii) to be exercised in a specified manner;

(iii) not to be exercised;

(iv) not to be exercised in a specified manner;

(b) require a specified duty—

(i) to be performed;

(ii) to be performed in a specified manner;

(iii) not to be performed in a specified manner;

and in this paragraph "specified" means specified in directions.

(3) In this Article "relevant authority" means any of the following, namely—

(a) a board;

(b) the Board of Governors or trustees of a grant#aided school;

Sub#para. (c) rep. by 1993 NI 12

(d) the governing body of an institution of further education;

(e) the managers or trustees of a college of education;

(f) the Council for Catholic Maintained Schools;

[F154(g) the Northern Ireland Council for the Curriculum, Examinations and Assessment.**]**

(4) If, on a complaint made to it by any person or body, the Department is satised that a relevant authority has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the Education Orders, the Department shall give such directions under paragraph (1) as to the exercise of the power or the performance of the duty as appear to the Department to be expedient to remedy that complaint.

(5) Directions may be given to a relevant authority under paragraph (1) notwithstanding any provision of the Education Orders rendering the exercise of the power or the performance of the duty contingent upon the opinion of that authority.

(6) It shall be the duty of a relevant authority to comply with any directions given to the authority under paragraph (1) and any such directions may be enforced by mandamus.

(7) Where the Department is satised that a relevant authority has failed to comply with any directions given to the authority under paragraph (1), the Department may make an order appointing a person or persons to discharge, in the name of the relevant authority, all the functions of the authority or such functions as may be specied in the order and the order may render valid any act, thing or payment which would otherwise be invalid by reason of any default by the authority.

(8) So long as an order under paragraph (7) remains in force the functions of the relevant authority or such functions as are specied in the order shall be performed by the person or persons appointed by the order and shall not be performed by the authority.

(9) The remuneration and expenses of a person or persons appointed by an order made under paragraph (7) shall be determined by the Department and shall together with any other sums expended by the Department in consequence of the order be defrayed as part of the expenses of the relevant authority under the Education Orders.

(10) The Statutory Rules (Northern Ireland) Order 1979 shall not apply to any order made under paragraph (7).

[
[F155](11) In relation to the managers or trustees of a college of education the functions of the Department under this Article are exercisable by the Department for Employment and Learning (as well as by the Department of Education).**]]**

F152 1989 NI 20
F153 certain functions transf. by SR 1999/481
F154 1993 NI 12
F155 2005 NI 13

Modifications etc. (not altering text)
C6 Art. 101 applied (1.1.2007) by Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439), **reg. 11(2)** (with regs. 5(4), 16(3)(4), 26, 49, 53, 54(1))

[[F156]Inspection of educational and other establishments by Department

102 [F157]**.**—(1) Every relevant establishment shall be open at all reasonable times to inspection under this Article.

(2) In this Article and Article 102A "relevant establishment" means—

(a) a school;

[F158](aa) **[** an institution of further education;**]**

(b) a college of education;

(c) a grant#aided institution or establishment; or

(d) an institution or establishment which is established, maintained or managed by a board or the activities of which are organised by a board.

(3) Inspections under this Article shall be conducted by—

(a) inspectors appointed by the Department; or

(b) other officers of the Department.

(4) Inspectors conducting the inspection of an establishment under this Article may be accompanied and assisted in the inspection by a lay person assigned for the purposes of that inspection under Article 102A.

(5) It shall be the duty of inspectors to promote the highest standards of education and of professional practice among teachers in relevant establishments which provide education by—

(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;

(b) advising the Department on any aspect of the curriculum of any of those establishments which the Department may refer to them or on which they think advice is appropriate.

(6) It shall be the duty of inspectors to monitor, inspect and report on the nature, scope and effect of advisory and support services provided by boards under Article 29 of the 1989 Order in relation to the curricula and staff of grant#aided schools.

[
[F158](6A) Inspectors conducting the inspection of an establishment under this Article may monitor, inspect and report on any other aspect of the establishment including, in particular, the management of the establishment and the staffing, equipment, accommodation and other resources of the establishment.**]**

(7) The functions conferred by this Article on inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a school under Article 5(1)(a) of the 1989 Order except with the agreement of the Board of Governors of the school.

(8) The Department may give directions under Article 101 for the purpose of remedying any matter referred to in a report under this Article.**]**

F156 1996 NI 1
F157 certain functions transf. by SR 1999/481
F158 1997 NI 15

Lay persons

102A [F159]**.**—(1) The Department may appoint a panel of persons to act as lay persons in inspections conducted under Article 102.

(2) A person shall not be appointed to the panel unless he is, in the opinion of the Department, without significant personal experience in the management of relevant establishments and the provision of education (otherwise than as a member of the managing body of such an establishment or in any other voluntary capacity).

(3) The Department may remove a person from the panel at any time.

(4) The Department may assign a member of the panel to be a lay person for the purposes of an inspection of any relevant establishment to be conducted under Article 102 but shall ensure that no person is so assigned if he has, or at any time had, any connection with—

(a) the establishment in question;

(b) any person who is employed at that establishment;

(c) any person who is a member of the managing body of that establishment;

(d) where the establishment is an independent school, the proprietor of the school,

of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to that establishment.

(5) The Department may, with the approval of the Department of Finance and Personnel, pay to members of the panel such allowances and expenses as the Department may determine.

(6) In this Article "managing body" means—

(a) in relation to a school, the Board of Governors;

(b) in relation to an institution of further education, the governing body;

(c) in relation to any other relevant establishment, the body responsible for its management.

F159 certain functions transf. by SR 1999/481

Art. 103 rep. by 2003 NI 12

Art. 104 rep. by 1987 NI 2

Acquisition by Department of land

105 [F160]**.**—(1) The Department may by agreement, or in accordance with paragraph (4) otherwise than by agreement, acquire any land which in its opinion is required for use by it for the purposes of**[**[F161] the Education Orders**]** and any land held by it for those purposes may, if in its opinion it is no longer required for those purposes, be disposed of by it in such manner and on such terms and conditions as the Department considers expedient or be appropriated by it for other purposes of the Department.

(2) Paragraph (1) shall not enable the Department to dispose of any land on terms other than the best obtainable except with the approval of the Department of Finance and Personnel.

(3) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (which contains provisions with respect to the disposal of land by government departments) shall not apply to the disposal of any land under paragraph (1) or paragraph (11).

(4) Where the Department desires for the purposes of**[**[F161] the Education Orders**]** to acquire land otherwise than by agreement, it may, subject to paragraphs (9) and (10), make a vesting order vesting the land in the Department and Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Part I of Schedule 16 apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in like manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(5) Any person authorised by the Department in writing stating the particular purpose or purposes for which entry is authorised may at all reasonable times, on giving three days prior notice of his intention to the occupier, enter for the purpose of survey, valuation or examination—

(a) land which the Department proposes to acquire compulsorily under the powers conferred on it by this Article; and

(b) any land, where it appears to the Department that survey, valuation or examination is necessary in order to determine whether any powers under this Article should be exercised in respect of that land.

(6) If any person, other than the owner or occupier of land entered under paragraph (5), obstructs a person authorised as aforesaid in the performance of anything which such person is required or authorised to do, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) If any person being the owner or occupier of land prevents a person authorised as aforesaid from duly carrying into effect any survey, valuation or examination of such land, any court of summary jurisdiction on proof thereof may order the first-mentioned person to permit to be done on such land all things requisite for carrying into effect such survey, valuation or examination and if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding £20.

(8) Where any property is damaged in the exercise of a right of entry conferred under this Article or in the making of any survey or examination for the purpose of which any such right of entry has been conferred, compensation in respect of that damage may be recovered from the Department by any person interested in the property and any question of disputed compensation shall be referred to and determined by the Lands Tribunal for Northern Ireland.

(9) Nothing in this Article shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is to the knowledge of the Department any historic monument or archaeological object within the meaning of**[**[F162] the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995**]**.

(10) The powers to make a vesting order under this Article may be exercised over land—

(a) which is the property of any body established by or under any transferred provision which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable;

but a vesting order shall not be made in relation to any such land, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, unless the proposal has been approved by a resolution of the Assembly.

(11) The Department may transfer to another Department of the Government of Northern Ireland or to a board**[**[F163] or to the governing body of an institution of further education**]** any land acquired by it under this Article or vested in it by Article 94(1) of the 1972 Order.

(12) Stamp duty shall not be payable on any instrument or other document executed for the purpose of transferring land from the Department under paragraph (11).

(13) A certificate of the Department that land has been transferred to it by Article 94(1) of the 1972 Order or transferred by the Department under paragraph (11) shall be evidence of such transfer and, upon lodgment of such a certificate, the certificate shall be registered in the Registry of Deeds or, in the case of registered land, the title to which the certificate relates shall be registered in the Land Registry.

F160 certain functions transf. by SR 1999/481
F161 1989 NI 20
F162 1995 NI 9
F163 1997 NI 15

Functions of boards in relation to land

106 [F164]**.**—(1) A board may, with the approval of the Department but not otherwise, acquire, hold or dispose of land and shall if the Department so directs transfer to the Department any land held by it.

(2) Where a board desires to acquire otherwise than by agreement any land which it considers necessary for the purposes of**[**[F165] the Education Orders**]** or which it considers is required for the purposes of a maintained school or for the purposes of a voluntary grammar school**[**[F166] in relation to which an agreement under paragraph 1(1) of Schedule 6 is in force**]**[F165]. . . , the board may apply to the Department for an order vesting such land in the board and the Department shall have power to make such an order and Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall,

subject to the modifications thereof specified in Part II of Schedule 16, apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in like manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(3) Where land acquired otherwise than by agreement for the purposes of a voluntary school is disposed of by a board to the trustees or Board of Governors of the school, the land shall vest in those trustees or Board of Governors subject to such conditions, including provision for the revesting of the land in the board in the event of the land not being, or not continuing to be, used or required for approved purposes of that school, as the board may, with the approval of the Department, determine.

(4) Paragraphs (5) to (10) of Article 105 shall apply for the purposes of this Article as they apply for the purposes of that Article and in their application for the purpose of this Article—

(a) references to the Department in paragraph (5) shall be construed as including references to a board and the reference to the Department in paragraph (8) shall be construed as including the board by which the authorisation was given;

(b) references to that Article shall be construed as references to this Article.

(5) The board shall not, under paragraph (1), dispose of any land gratuitously, or at either a price or rent other than the best obtainable, or on terms other than the best obtainable unless the approval of the Department is obtained.

(6) The Department may empower a board to act on its behalf in the acquisition, holding or disposal of land and a board shall manage and maintain, and may provide any buildings required for the purposes of**[**[F165] the Education Orders**]** on, such land held by the Department as the Department may approve.

(7) A board, notwithstanding that it is exercising functions on behalf of the Department under paragraph (6), shall be entitled to enforce any rights acquired and shall be liable in respect of any liabilities incurred (including liabilities in tort) in the exercise of those functions in all respects as if it were acting as principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the board in its own name.

F164 certain functions transf. by SR 1999/481
F165 1989 NI 20
F166 1993 NI 12

Transfer to board of certain assets of Department

107.—(1) The Department may, where it thinks fit, transfer to a board any assets or liabilities transferred to it under Article 96(1) of the 1972 Order.

(2) The transfer to the Department by virtue of the said Article 96(1) of an endowment or other charitable gift shall be effective notwithstanding any provision to the contrary in any instrument making the endowment or gift but the Department shall, so far as practicable, ensure that the benefits accruing from any such endowment or gift are applied for the purposes for which the endowment or gift was made.

Art. 108 rep. by 2005 c. 12

Power of Head of the Department to appoint advisory bodies or committees

109 [F167]**.** The Head of the Department may appoint such advisory bodies or committees as he considers necessary to assist the Department in the exercise and performance of the functions conferred on the Department by**[**[F168] the Education Orders**]**.

F167 certain functions transf. by SR 1999/481

F168 1989 NI 20

Conduct of examinations by Department

110. The Department may conduct such examinations as it considers necessary for the purposes of the statutory system of public education.

Finance

Power of boards to accept gifts

111.—(1) Subject to paragraph (2), a board may be constituted trustees for any endowment or charity for the purposes of any of its functions under**[**[F169] the Education Orders**]** whether the endowment was established before or after the date of the coming into operation of this Article and, subject to Article 106, a board shall have power to accept any real or personal property given to it as an endowment or upon trust for any of the aforesaid purposes.

(2) Paragraph (1) shall not enable a board to be trustees for or to accept any endowment, charity or trust, the purposes of which are inconsistent with the provisions of**[**[F169] the Education Orders**]** or the principles on which the board is required to conduct schools provided by it.

F169 1989 NI 20

Borrowing powers of boards

112.—(1) A board may, by means of a bank overdraft or by such other means, within such limits and subject to such conditions as may be approved by the Department temporarily borrow such sums as may be necessary for the purpose of defraying any**[**[F170] expenditure incurred or to be incurred by it in accordance with a resource allocation plan (or revised plan) approved under Article 10 of the Education and Libraries (Northern Ireland) Order 2003**]**.

(2) Any sum borrowed by a board under paragraph (1) shall be repaid by the board before the end of the financial year in which it is borrowed.

(3) A board may borrow or raise money, on such terms and subject to such conditions as the Department may approve, upon the security of any property or assets of the board for the purposes of meeting expenses incurred in connection with any permanent works the cost of which is properly chargeable to capital or for any other purpose for which capital moneys may properly be applied.

F170 2003 NI 12

Art. 113 rep. by 2003 NI 12

Art. 114 rep. by 2003 NI 12

[[F171]Grants for educational or library services, etc.

115 [F172]**.**—[F173](1) Subject to paragraph (3), the Department may, in accordance with regulations made with the approval of the Department of Finance and Personnel, pay grants to persons in respect of expenditure incurred or to be incurred by them—

(a) for the purposes of, or in connection with, the provision (or proposed provision) of—

(i) educational or library services; or

(ii) recreational, social, cultural, physical or youth service activities or services ancillary to education;

(b) for the purposes of research relevant to the functions of the Department or of boards under the Education Orders.

(2) Regulations under paragraph (1) may prescribe the rates of grants which may be paid under that paragraph.

(3) The Department shall not pay grants under this Article to—

(a) a board; or

(b) the trustees or managers of—

(i) a voluntary school; or

(ii) a grant#maintained integrated school.

[[F174]or**]**

[the governing body of an institution of further education;**]**
[F174](c)

(4) Paragraph (5) applies where—

(a) the Department has, after the coming into operation of Article 159 of the 1989 Order, paid a grant under this Article to a person in respect of expenditure incurred or to be incurred by him for the provision or alteration of premises; and

(b) those premises cease to be used for approved purposes.

(5) Where this paragraph applies there shall be payable to the Department by the person to whom the grant was paid or his successor in title such sum as the Department considers equitable but not exceeding such proportion of the value of the premises as the proportion that the amount of the grant was of the approved cost of the provision or alteration of the premises together with interest on that sum from the date on which the premises ceased to be used for approved purposes until the date of payment to the Department.

(6) For the purposes of paragraph (5) the value of premises shall be taken to be the amount which the premises might be expected to realise if sold in the open market on the date on which the premises ceased to be used for approved purposes and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value may be referred to and determined by the Lands Tribunal for Northern Ireland.

(7) For the purposes of paragraph (5) interest shall be at such rate as may from time to time be determined by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972.

(8) Any sum payable or repayable to the Department under this Article may be recovered as a debt due to the Department.**]**

F171 1989 NI 20
F172 certain functions transf. by SR 1999/481
F173 for certain purposes functions transf. by SR 2001/229
F174 1997 NI 15

[[F175F176]**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;

Sub#para. (c) rep. by 1996 NI 1

(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.**]**

F175 1993 NI 12
F176 prosp. rep. by 1998 NI 13

Arts. 117, 118 rep. by 1989 NI 20

Art. 119 rep. by 2003 NI 12

[F177Recovery 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[F178] Part V of the 1989 Order;[F179]. . .

Sub#para. (b) rep. by 1997 NI 15

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[F178] Article 53 of the 1989 Order;

Sub#para. (b) rep. by 1997 NI 15

(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[F179]. . . 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[F179]. . . , 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;

"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.**]**

F177 1993 NI 12
F178 prosp. subst. by 1998 NI 13
F179 1997 NI 15

Part IX (Arts. 120#126) rep. by 1989 NI 20

PART X

MISCELLANEOUS AND GENERAL

Transfer of certain institutions to Department

127.—(1) Any person managing an institution to which the Literary and Scientific Institutions Act 1854 applies may, whether or not the land on which such institution is situated is vested in him, make an arrangement under Schedule 9 for the transfer of the institution to the Department and the Department may assent and give effect to any such arrangement.

(2) For the purposes of paragraph (1), Schedule 9 shall have effect as if references to a school included references to an institution to which the Literary and Scientific Institutions Act 1854 applies.

(3) The Department may transfer to a board any institution transferred to it under this Article.

Use of land provided or maintained under this Order

128. Land provided or maintained for any of the purposes of**[**[F180] the Education Orders**]** may be used for any of the other purposes of**[**[F180] the Education Orders**]** or for any of the purposes of the**[**[F181] Recreation and Youth Service (Northern Ireland) Order 1986**][**[F182] Youth Service (Northern Ireland) Order 1989**]**.

F180 1989 NI 20
F181 1986 NI 25
F182 1989 NI 22

Publication of notices

129.—(1) Notices and other matters required to be published under**[**[F183] the Education Orders**]** shall, when no particular method is provided or indicated, be published either by advertisement in newspapers, or in such other manner as the Department may either generally or with respect to any particular area, place or notice, or class of area, place or notice, direct as being in its opinion sufficient for giving information to all persons interested.

(2) If any person wilfully removes, injures or defaces any notice exhibited in pursuance of**[**[F183] the Education Orders**]** he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F183 1989 NI 20

Service of notices on, and authentication of notices by, boards

130.—(1) Without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954, any notice, order or other document required to be served on or sent to a board under**[**[F184] the Education Orders**]** may be served or sent by giving it to the**[**[F184] chief executive**]** of the board or sending it to or delivering it at the headquarters of the board.

(2) Any notice, order or other document requiring authentication by a board may be authenticated by the**[**[F184] chief executive**]** of the board or another officer of the board authorised in that behalf by the board.

F184 1989 NI 20

Evidence of documents

131. In any legal proceedings, a document purporting to be—

(a) a document issued by a board and to be signed by the**[**[F185] chief executive**]** of the board or by any other officer of the board authorised to sign it;

(b) an extract from the minutes of the proceedings at any meeting of the**[**[F186] Board of Governors of a grant#aided school and to be signed by the chairman or secretary of the Board of Governors**]**;

(c) a certificate giving particulars of the attendance of a child at a school and to be signed by the principal of the school; or

(d) a certificate issued by a medical officer and to be signed by such an officer;

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to be signed by the person by whom it purports to have been signed without proof of his identity, signature or official capacity, and such extract or certificate as is mentioned in paragraph (b), (c) or (d) shall be evidence of the matters stated therein.

F185 1989 NI 20
F186 1987 NI 2

[[F187]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.**]**

F187 1993 NI 12

Amendments

132.—(1) A reference in any enactment to a local education authority shall unless this Order or the context of the enactment otherwise requires be construed as a reference to a board.
Para. (2)—Amendments

Transitional and saving provisions

133.—(1) The transitional provisions set out in Schedule 19 shall have effect.

[[F188](2) No power or duty conferred or imposed by this Order on the Department or boards or parents shall be construed as relating to any person who is detaimed in pursuance of an order made by any court.**]**

F188 1987 NI 2

Regulations

134 [F189]**.—**[F190](1) The Department may make all such regulations as it is required or empowered to make under**[**[F191] the Education Orders**]** or as appear to it to be necessary or proper for giving full effect to**[**[F191] the Education Orders**]**.

(2) All regulations under this Order shall be subject to negative resolution.

F189 certain functions transf. by SR 1999/481
F190 for certain purposes functions transf. by SR 2001/229
F191 1993 NI 12

Article 135—Repeals

Status:
Point in time view as at 01/01/2006.

Changes to legislation:
The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.