
STATUTORY INSTRUMENTS

1986 No. 594

The Education and Libraries (Northern Ireland) Order 1986

PART III

PROVISION OF EDUCATION

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

Proposals as to primary and secondary education

14.—(1) Where [^{F1}the Authority] proposes—

- (a) to establish a new controlled school[^{F2}, other than a controlled integrated school];
- (b) to have an existing school recognised as a[^{F2} 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,

[^{F1}the Authority] shall submit the proposal to the Department.

(2) Where a person other than [^{F1}the Authority] proposes—

- (a) to establish a new voluntary school;
- (b) to have an existing school recognised as a[^{F2} 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,

[^{F2}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 [^{F1}the Authority]^{F3}... together with the Council's views thereon;
- (ii) in any other case, the person making the proposal shall submit the proposal to [^{F1}the Authority]^{F3}...

and [^{F1}the Authority] 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.]

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(3) It shall, where the Department so directs, be the duty of [F1the Authority] to submit to the Department a proposal—

- (a) to establish a new controlled school[F2, 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.

[F4(5) Before a proposal concerning an existing school is submitted to [F1the Authority] 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 [F1the Authority] under paragraph (1) or (3), [F1the Authority] 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 [F1the Authority] under paragraph (1), (2) or (3), [F1the Authority] shall consult the trustees and managers (or representatives of them) of any other school which would, in the opinion of [F1the Authority] , 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 [F1the Authority] , 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 [F1the Authority] 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 [F1the Authority] or person making the proposal[F2 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 [F1the Authority] 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.

[^{F5}(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 [^{F1}the Authority] 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 [^{F1}the Authority] or person making the proposal.]

[^{F2}(9C) Where the Department approves under paragraph (9) a proposal submitted to [^{F1}the Authority] 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.

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| F1 | Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3) , Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b) |
| F2 | 1989 NI 20 |
| F3 | Words in art. 14(2)(i)(ii) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F4 | 2003 NI 12 |
| F5 | 1987 NI 2 |

Establishment and recognition of grant-aided schools

15.—(1) Where the Department approves a proposal to establish a [^{F6} controlled or voluntary] school, [^{F1}the Authority] 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^{F7}. . . 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, [^{F1}the Authority] 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 [^{F6} 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 [^{F8} in relation to which an agreement with the Department under paragraph 1(1) of Schedule 6 is in force];^{F8}. . .

(4) Where the Department approves a proposal for the recognition of an existing school as a [^{F6} controlled or voluntary] school, the Department may grant such recognition upon such terms and subject to such conditions as it may determine.

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| F1 | Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3) , Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b) |
| F6 | 1989 NI 20 |

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- F7** 1996 NI 1
F8 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 [F1the Authority]^{F9}... 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 [F10by the Authority or by a board] or, before 1st October 1973, by a former local education authority.

(2) Paragraph (1) shall not apply where the Department and [F1the Authority]^{F9}... 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 [F11Article 68 of the Education (Northern Ireland) Order 1998], the trustees shall [F12 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.

- F1** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
F9 Words in art. 16(1)(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b); S.R. 2015/35, art. 2(b)
F10 Words in art. 16(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(6)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
F11 Words in art. 16(4)(a) substituted (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, **art. 3(d)**
F12 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 [F13the Authority] , 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 [F14the Authority] 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 ^{F15}the Authority] and may, subject to the terms on which the school was transferred to the Department, convey to ^{F1}the Authority] any estate in land relating to the school and, whether or not it does so, may transfer to ^{F1}the Authority] 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 ^{F16}the Authority] but shall not do so without the consent of the managers of the school and where it does so, the Department may convey to ^{F1}the Authority] any estate in land relating to the school.

^{F17}(7)

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| <p>F1 Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)</p> <p>F13 Words in art. 17(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(7) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)</p> <p>F14 Words in art. 17(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(8) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)</p> <p>F15 Words in art. 17(3) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(7) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)</p> <p>F16 Words in art. 17(6) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(7) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)</p> <p>F17 Art. 17(7) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)</p> |
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^{F18}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^{F19}, 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.

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[with respect to the keeping, disclosure and transfer of educational records about pupils ^{F19}(g) 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.]

[^{F19}(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^{[F19} 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.]

F18 1987 NI 2
F19 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)**

[F20] 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) [^{F1}the Authority][^{F21}in the case 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.]

F1 Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

F20 1993 NI 12

F21 Words in art. 18(2)(a) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 9(9)** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Arts. 19, 20 rep. by 1989 NI 20

Changes to legislation:

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

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

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