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## STATUTORY INSTRUMENTS

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# 1986 No. 594

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

### PART VIII

#### ADMINISTRATION AND FINANCE

##### *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<sup>[F1]</sup> 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<sup>[F1]</sup> the Education Orders] or the principles on which the board is required to conduct schools provided by it.

**F1** 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<sup>[F2]</sup> 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.

**F2** 2003 NI 12

*Art. 113 rep. by 2003 NI 12*

*Art. 114 rep. by 2003 NI 12*

**Status:** Point in time view as at 01/01/2006.

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### [<sup>F3</sup>Grants for educational or library services, etc.

**115**<sup>F4</sup>.—<sup>F5</sup>(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.

[<sup>F6</sup>or]

[ the governing body of an institution of further education;]  
<sup>F6</sup>(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.]

**F3** 1989 NI 20

**F4** certain functions transf. by SR 1999/481

**F5** for certain purposes functions transf. by SR 2001/229

F6 1997 NI 15

**[<sup>F7F8</sup>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—

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- (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.]

**F7** 1993 NI 12

**F8** prosp. rep. by 1998 NI 13

*Arts. 117, 118 rep. by 1989 NI 20*

*Art. 119 rep. by 2003 NI 12*

### [<sup>F9</sup>Recovery 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<sup>F10</sup> Part V of the 1989 Order;<sup>F11</sup> . . .

*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<sup>F10</sup> 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<sup>F11</sup> . . . 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<sup>F11</sup> . . . , 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;

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“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.]

- F9** 1993 NI 12
- F10** prosp. subst. by 1998 NI 13
- F11** 1997 NI 15

**Status:**

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