
STATUTORY INSTRUMENTS

1986 No. 594 (N.I. 3)

NORTHERN IRELAND

The Education and Libraries
(Northern Ireland) Order 1986

Laid before Parliament in draft

Made

26th March 1986

Coming into Operation

27th June 1986



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At the Court at Buckingham Palace, the 26th day of March 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I
PRELIMINARY

Title and commencement

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

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(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 this Order and directions given under this Order by the Department whether or not such statutory instruments or directions are of a legislative character. 1954 c. 33 (N.I.)

(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;
- “child”, subject to Article 33(3), means a person who is not over compulsory school age;
- “clothing” includes footwear;
- “college of education” means a college for the training of teachers being a college which is maintained in pursuance of arrangements made by the Department under Article 66(1) or in respect of which grants are paid by the Department under Article 66(2) or (3);
- “compulsory school age” has the meaning assigned to it by Article 46;
- “contributory school” means, in relation to a controlled intermediate school, a controlled primary school from which, in the opinion of the board responsible for the management of the controlled intermediate school, a substantial number of pupils proceed or are likely to proceed to the controlled intermediate school for the purpose of continuing their education;
- “controlled school” means a grant-aided school under the management of a board;
- “controlled integrated school” means a controlled school which in accordance with Articles 14 and 19 has become a controlled integrated school;
- “direct grant voluntary intermediate school” means a school which in accordance with paragraph 3 or 4 of Schedule 10 has become a direct grant voluntary intermediate school;
- “enactment” has the meaning assigned to it by section 1(b) of the Interpretation Act (Northern Ireland) 1954;

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- “former local education authority” means a local education authority within the meaning of the enactments repealed by the 1972 Order;
- “further education” has the meaning assigned to it by Article 5(c);
- “grammar school” means a secondary school not being an intermediate 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 this Order, not being a college of education;
- “independent school” means a school which is not a grant-aided school;
- “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;
- “intermediate school” means a secondary school which, apart from any fees which may be charged under Article 56(2) or (3), provides free education;
- “junior pupil” means a child who has not attained the age of eleven years and six months;
- “maintained school” has the meaning assigned to it by Article 11(3);
- “managers” means—
- (a) in relation to a controlled school, the board responsible for its management;
 - (b) in relation to a voluntary school (other than a school referred to in Article 11(8)), the Board of Governors of the school;
 - (c) in relation to a voluntary school referred to in Article 11(8), the person approved by the Department under that provision in relation to the school;
 - (d) in relation to an independent school, the proprietor of the school;
 - (e) in relation to an institution of further education, the board responsible for its management;
 - (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;
- “newspaper” in Articles 95 to 97 includes any newsagency which

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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 cable programme service which is, or does not require to be, licensed under Part I of the Cable and Broadcasting Act 1984;

1984 c. 46

- “nursery school” means a primary school which is used mainly for the purpose of providing education for children who have attained the age of two years but have not attained the age of five years;
- “officer”, in relation to a board, includes a servant but does not include a teacher;
- “parent”, in relation to a child or young person, includes a guardian and every person who has the actual custody of the child or young person;
- “peripatetic teacher” has the meaning assigned to it by Article 65(2)(a);
- “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;
- “primary education” means full-time education suitable to the requirements of junior pupils;
- “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 this Order;
- “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;

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- “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 other than such full-time education as may be provided for senior pupils under the provisions of this Order relating to 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;
- “special educational provision” and “special educational needs” have the meanings assigned to those expressions by Article 33(1) and (2) respectively;
- “special school” means a school which is specially organised to make special educational provision for pupils with special educational needs and which is approved by the Department as such;
- 1954 c. 33 (N.I.) “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;
- “supply teacher” has the meaning assigned to it by Article 65(2)(b);
- “technical intermediate school” means a controlled intermediate school conducted in association with an institution of further education;
- “the Department” means the Department of Education;
- 1972 NI 12 “the 1972 Order” means the Education and Libraries (Northern Ireland) Order 1972;
- “transferors” means—
- 1923 c. 21 (N.I.) (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
- 1947 c. 3 (N.I.) (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;

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

“trustees”, in relation to a voluntary 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;

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

(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.

1973 c. 36
1972 c. 22

PART II

EDUCATION AND LIBRARY BOARDS AND
COMMITTEES THEREOF

Education and library boards

3.—(1) For the purposes of this Order, 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 Article 106, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

1954 c. 33 (N.I.)

(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 such place as the Department may direct or approve.

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.

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(3) Each board shall prepare and submit to the Department for approval a scheme specifying the functions to be performed and 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 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 its teaching appointments committee or 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 paragraph (5) or Article 10 or 28, 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.

PART III
PROVISION OF EDUCATION

The statutory system of education

Stages and purposes of statutory system of education

5. The statutory system of public education shall be organised in three stages as follows:—

- (a) primary education, that is to say, full-time education suitable to the requirements of junior pupils;
- (b) secondary education, that is to say, full-time education suitable to the requirements of senior pupils other than full-time education at an institution or establishment providing further education; and
- (c) further education, that is to say, full-time and part-time education other than secondary education provided for persons over compulsory school age;

and it shall be the duty of each board, so far as its powers extend, to contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient education throughout those stages is available to meet the needs of its area.

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.

(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.

(3) Where a board is satisfied that, by reason of any exceptional circumstances, a child or young person is unable to attend a suitable school for the purpose of receiving primary or secondary education, the board may, with the approval of the Department, make such special arrangements as it considers suitable for the education of the child or young person otherwise than at a school.

(4) Where a board is satisfied that, in relation to a child who has special educational needs, it would be inappropriate for the special educational provision required for that child, or for any part of that provision, to be made at a school, the board may, with the approval of the Department and after consulting the child's parent, arrange for the special educational provision or, as the case may be, for that part of it, to be made otherwise than at a school.

Provision, maintenance and management of controlled schools by boards

7. For the purposes of fulfilling its duties under this Order, a board may provide primary, secondary and special schools whether within or outside 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.

Duties of boards in relation to certain voluntary schools

8.—(1) Subject to and in accordance with regulations, a board

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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;
- (b) the payment of the salaries of teachers in the school and of secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 and employers' superannuation contributions in respect of teachers;
- (c) redundancy payments under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 in respect of teachers ceasing to be employed in the school;

1975 c. 15

1965 c. 19 (N.I.)

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.

(2) Subject to and in accordance with regulations, a board shall pay to the managers of a voluntary primary, intermediate or special school which is not a maintained school or a direct grant voluntary intermediate school contributions amounting to sixty-five per cent. of the approved net expenditure incurred on the lighting, heating, cleaning and internal and external maintenance of the school premises and the maintenance of equipment of the school excluding, in the case of a boarding school, so much of those premises or that equipment as is used wholly or mainly for boarding purposes.

(3) Paragraph (2) shall, in like manner as it applies to approved net expenditure incurred on maintenance, apply to approved expenditure incurred on the payment of premiums for insurance against fire, flood and other damage to, or loss of, the school premises or equipment.

(4) Regulations under this Article may make provision for the repayment, in such circumstances as are specified in the regulations, of the whole or part of any money paid under this Article in respect of a school and any sum repayable by virtue of any such provision may be recovered by the board as a debt due to it.

(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.

Power of boards to assist voluntary grammar schools and direct grant voluntary intermediate schools

9. 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 or a

- direct grant voluntary intermediate school; and
- (b) give financial assistance to the trustees or Board of Governors of a voluntary grammar school, the trustees or Board of Governors of which have entered into an agreement with the board under Schedule 6, or of a direct grant voluntary intermediate school,

upon such terms and conditions as may be arranged between the board and the trustees or Board of Governors of the school.

School management

Management of controlled schools

10.—(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—

- (a) controlled primary school, other than a controlled nursery school or controlled integrated primary school;
- (b) controlled intermediate school, other than a technical intermediate school or controlled integrated intermediate school;
- (c) controlled nursery school;
- (d) controlled grammar school;
- (e) controlled special school;
- (f) controlled integrated school;

under its management.

(2) Two or more controlled primary schools, other than 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 membership, procedure and functions of the Board of Governors of a controlled school or controlled schools shall, subject to the provisions of Schedule 4 as to membership and to the other provisions of this Order, be such as may be provided by a scheme prepared by the board and approved by the Department and such a scheme may provide for the carrying out by the Board of Governors in relation to the school or schools under its management of specified functions on behalf of, and in the name of, the board.

(4) Any question as to the right of any person to be, or to nominate, a member of a Board of Governors shall be decided by the Department, whose decision shall be final.

(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.

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Management of voluntary schools

11.—(1) Subject to paragraph (8) below and to paragraph 1(2) of Schedule 5, each voluntary school shall be under the control and management of a Board of Governors.

(2) The membership, procedure and functions of the Board of Governors of a voluntary school or voluntary schools shall, subject to the provisions of Schedules 5, 6, 7 and 8 as to membership and to the other provisions of this Order, be such as may be provided by a scheme approved by the Department.

(3) A voluntary school for which a Board of Governors is constituted in accordance with Part I of Schedule 5 (in this Order referred to as “a maintained school”) shall be under the control and management of that Board of Governors and may be withdrawn from the control and management of that Board of Governors in accordance with the provisions of Part II of that Schedule.

(4) Each voluntary grammar school whose trustees or Board of Governors have entered into an agreement under Schedule 6 with the Department or a board or boards shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6.

(5) Each direct grant voluntary intermediate school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6.

(6) Each voluntary grammar school whose trustees or Board of Governors have not entered into an agreement under Schedule 6 shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 7.

(7) Each voluntary school which has, under paragraph 4 of Schedule 5, ceased to be a maintained school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 8.

(8) Each voluntary primary school which is not, and has never at any time been, a maintained school shall be under the control and management of a person approved by the Department.

Limitation on membership of Boards of Governors

12.—(1) Subject to paragraph (2), no person shall at the same time hold office as a member of more than five Boards of Governors constituted under this Order.

(2) For the purposes of this Article there shall be disregarded any appointment or nomination to a Board of Governors made under the following provisions of this Order, namely—

- (a) paragraph 2(2)(a), 3(2)(a) or 5(c) or (d) of Schedule 4,
- (b) paragraph 2(3)(a) of Schedule 5,
- (c) paragraph 3(2)(a) of Schedule 6 or paragraph 2(1)(a) of

Schedule 7, if the appointment is made solely by reference to the office held by the person appointed,
(d) paragraph 2(2)(a) of Schedule 8.

Miscellaneous provisions relating to Boards of Governors

13.—(1) The proceedings of a Board of Governors constituted under this Order 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 under this Order members of a Board of Governors are required to be elected or nominated by other persons then if, for whatever reason, such members have not yet, 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.

(4) An assistant teacher elected as a member of the Board of Governors of one or more than one 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 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 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.

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;
 - (b) to have an existing school recognised as a grant-aided 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,

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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 grant-aided 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,

that person 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.

(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;
- (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.

(5) A board, before submitting a proposal to the Department under paragraph (1), (2) or (3), shall consult the trustees and managers (or persons representing them) of any school or schools 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, 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.

(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.

Establishment and recognition of grant-aided schools

15.—(1) Where the Department approves a proposal to establish a grant-aided 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 by or 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 or recognition of a school under voluntary management as a grant-aided school unless the school is to become a maintained school or unless it is to become a grammar school the trustees or Board of Governors of which have entered into an agreement with the Department under Schedule 6; but this paragraph shall not apply to a school which the Department is satisfied replaces a school or schools (not being a school which was, or schools one or more than one of which was, a maintained school) recognised as a grant-aided school before 19th October 1967.

(4) Where the Department approves a proposal for the recognition of an existing school as a grant-aided school, the Department may grant such recognition upon such terms and subject to such conditions as it may determine.

Discontinuance of grant-aided schools

16.—(1) Subject to paragraph (2), where the trustees of a volun-

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tary 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 Article 116, the trustees shall pay to the Department such sums as are payable in accordance with the provisions of that Article or regulations thereunder;

(b) moneys have been paid in respect of the school under Article 8, the trustees shall repay to the board for the area in which the school is situated such sums as are repayable in accordance with the provisions of regulations under that Article;

(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.

1930 c. 14 (N.I.)
1947 c. 3 (N.I.)

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.

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(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, or such other board as the Department may determine.

Requirements as to school premises

18.—(1) The Department shall make regulations prescribing the standards to which premises of grant-aided schools shall conform and, subject to paragraph (2), the board responsible for the management of a controlled school and the trustees of a voluntary school shall secure that the premises of the school conform to the standards prescribed for schools of the description to which the school belongs.

(2) Where the Department is satisfied that it would be unreasonable to expect the premises of a particular school to conform to all the requirements of regulations under paragraph (1), it may exempt the school premises from conforming to the regulations to such extent and for such time as it thinks necessary.

Establishment of controlled integrated schools

19.—(1) In order to facilitate the establishment of schools likely to be attended by pupils of different religious affiliations or cultural traditions, a school to which this Article applies may, in accordance with the following provisions of this Article, become a controlled integrated school.

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- (2) This Article applies to all grant-aided schools other than—
- (a) a controlled nursery school;
 - (b) a controlled grammar school;
 - (c) a controlled special school.

(3) Where not less than two-thirds of the persons appointed under paragraph 2(2)(a) or 3(2)(a) of Schedule 4 to the Board of Governors of a controlled school to which this Article applies make a request to the board responsible for the management of the school that the school should become a controlled integrated school, or that, where two or more controlled schools to which this Article applies are grouped under a Board of Governors, one or more of those schools should become a controlled integrated school or controlled integrated schools, the board shall, subject to paragraph (5), proceed to ascertain the views of the parents of the pupils attending the school or schools.

(4) Where the trustees of a voluntary school wish to transfer the school to the Department under Article 17 and request that the school should become a controlled integrated school, the board for the area in which the school is situated shall, subject to paragraph (5), proceed to ascertain the views of the parents of the pupils attending the school.

(5) If before the time when a request is made under paragraph (3) or (4) that a school should become a controlled integrated school the board has published a notice under Article 14(6)(b) stating that a proposal that the school should be discontinued has been submitted to the Department, then the board shall not proceed as mentioned in paragraph (3) or (4) unless the Department has decided under Article 14 not to approve that proposal.

(6) Subject to paragraph (7), where a board is required under paragraph (3) or (4) to ascertain the views of the parents of pupils attending a school, it shall do so in accordance with a scheme prepared by the board and approved by the Department.

(7) If the Department cannot approve a scheme prepared by a board, the views of the parents shall be ascertained by the board in accordance with a scheme prepared by the Department.

(8) A scheme prepared under paragraph (6) or (7) shall in particular provide that the parents of the pupils attending the school in question shall be given an opportunity, so far as practicable in such a way that their identity is not revealed, to state whether they would be prepared to send them to the school if it became a controlled integrated school.

(9) Where a board has ascertained the views of the parents in accordance with a scheme under paragraph (6) or (7), the board shall within such time as the Department may fix send to the Department particulars of the information received from the parents.

(10) The Department, after consultation with the board, shall

either—

- (a) determine that the school shall not become a controlled integrated school; or
- (b) subject to paragraph (11), give a direction to the board to submit a proposal under Article 14(3), giving effect to the request that the school should become a controlled integrated school.

(11) The Department shall not give a direction under paragraph (10)(b) in relation to a request that a school should become a controlled integrated school unless satisfied that at least three-quarters of the parents of the pupils attending that school whose views have been ascertained would be prepared to send them to the school if it became a controlled integrated school.

(12) Where a proposal giving effect to a request under paragraph (3) that a school should become a controlled integrated school is approved by the Department under Article 14 the board for the area in which the school is situated shall make provision by means of a Board of Governors for the management of the school as a controlled integrated school.

(13) Where a proposal giving effect to a request under paragraph (4) that a school should become a controlled integrated school is approved by the Department under Article 14, Article 17(3) shall, in its application to the school, have effect with the substitution for the words “controlled school” of the words “controlled integrated school”.

(14) The provisions of this Order shall, subject to any express provision to the contrary, apply to a controlled integrated school in like manner as they apply to a controlled school which is not a controlled integrated school.

Voluntary grammar school becoming voluntary intermediate school must become either maintained or direct grant voluntary intermediate school

20. Schedule 10 shall apply to a school if—

- (a) the Department, after 1st August 1984, approves under Article 14(7) a proposal that the school should become a voluntary intermediate school; and
- (b) the school is, immediately before the date of such approval, a voluntary grammar school.

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 instruction shall be given in every controlled and voluntary school other

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than a nursery or special 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 the religious instruction required by paragraph (1) shall be undenominational religious instruction, that is to say, instruction based upon the Holy Scriptures according to some authoritative version or versions thereof but excluding instruction 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.

(3) In a voluntary school the religious instruction and collective worship required by paragraph (1) shall be under the control of the managers of the school and such religious instruction shall be subject to such arrangements for inspection and examination as the managers think fit.

(4) Religious instruction 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 instruction other than religious instruction;
- (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 instruction 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 instruction 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 controlled or voluntary school other than a nursery or special school for the purpose of giving religious instruction, whether as to tenets distinctive of a particular religious denomination or otherwise, or of inspecting and examining the religious instruction given in the school and instruction 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 instruction 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 instruction 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 controlled and voluntary schools other than nursery and special 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 instruction may be given;
- (b) the times during which pupils may be withdrawn from the school so that they may receive religious instruction in accordance with the provisions of paragraph (8);
- (c) the making of arrangements for religious instruction in schools;
- (d) the amount of time which may be allotted in the time-tables of schools to religious instruction.

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 a nursery or special school, if so requested by the board which controls the school, shall conduct or attend collective worship in the school and give undenominational religious instruction in the school but a teacher in a controlled school shall not be required to give religious instruction other than undenominational religious instruction.

(2) A teacher who has, under paragraph (1), been required to conduct or attend collective worship or give undenominational religious instruction, 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 instruction or both from conducting and attending such worship and giving such instruction 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 instruction.

(4) Where a board is wholly or partly unable to arrange that the teachers in a school conduct the collective worship or give the

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undenominational religious instruction 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 instruction.

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

23.—(1) It shall not be a duty of inspectors or other officers of the Department to inspect or examine the religious education given in schools.

(2) If either or both parents of at least twenty per cent. of the pupils in attendance at a school address a complaint in writing to the Department alleging that all or any of the obligations which a board or, in the case of a voluntary school, the managers thereof are required to undertake under Article 21 are not being carried out or are not being carried out in a bona fide manner, the Department may make such inquiry as it thinks fit into the complaint and, if satisfied that there is reasonable cause for complaint, may give directions to the board or managers, as the case may be, as to the manner in which such obligations shall be carried out.

Miscellaneous provisions as to primary and secondary education

Joint arrangements between boards and voluntary schools for provision of educational facilities

24.—(1) It shall, notwithstanding anything in any instrument of government of a voluntary school, be lawful for a board and the trustees or managers of that school to enter into an arrangement whereby—

- (a) the board provides for pupils of that school educational facilities in any school or institution of further education under the management of the board;
- (b) the trustees or managers of that school provide educational facilities for pupils of any school or institution under the management of the board.

(2) Any arrangement under paragraph (1) may provide for such payments by or to the board to or by the trustees or managers of the voluntary school as may be agreed by the board and the trustees or managers and approved by the Department.

Reservation of places in grammar schools

25. It shall be the duty of the managers of each grammar school, in accordance with regulations, to make available, for pupils having the prescribed qualifications, such number of places as are prescribed.

Fees in grammar schools

26.—(1) Subject to regulations, the managers of a grammar school may determine the fees to be charged in respect of pupils admitted to the school.

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

- (a) the types of fee which may be charged under this Article;
- (b) the pupils in respect of whom any type of fee may be charged under this Article;
- (c) the maximum fee which may be charged by the Board of Governors of a voluntary grammar school of a prescribed description for the purpose of meeting expenditure incurred or to be incurred for the provision or alteration of the premises of the school or for the provision of equipment for the school.

Further education

Duty of boards with respect to further education

27.—(1) Each board shall secure, in accordance with arrangements approved by the Department, the provision for its area of adequate facilities for further education and may, with the approval of the Department, provide facilities for further education to meet the requirements of an area in Northern Ireland outside its own area.

(2) A board shall, in making arrangements for further education, have regard to any facilities provided by other boards or bodies.

(3) In providing facilities for further education, a board may—

- (a) co-operate with other boards and bodies other than boards;
- (b) with the approval of the Department, contribute towards the expenses of such bodies other than boards or incur expenditure jointly with another board or other boards.

(4) In this Article references to facilities for further education include references to facilities for vocational and industrial training.

Management of institutions of further education

28.—(1) Each institution of further education shall be under the management of the board for the area in which the institution is situated and the board shall make provision by means of a management committee for the management of each such institution in its area.

(2) A management committee for an institution of further education shall also have under its management any technical intermediate school conducted in association with the institution and two or more such institutions may, if the board so determines and the Department approves, be under the management of one management committee.

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(3) The membership, procedure and functions (including functions as to the appointment of teachers) of a management committee for an institution or institutions of further education shall be such as may be provided by a scheme framed by the board and approved by the Department and such a scheme may provide for the carrying out by the committee in relation to the institution or institutions of further education under its management of specified functions on behalf of, and in the name of, the board.

(4) A management committee for an institution or institutions of further education 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.

Special education

General duty of boards to identify and assess children with special educational needs

29.—(1) It shall be the duty of each board to secure that, of the children in its area to whom this Article applies, those with special educational needs which call for the board to determine the special educational provision that should be made for them are identified by the board.

(2) Where, in the case of any child to whom this Article applies, the board is of the opinion that he has, or probably has, special educational needs which call for the board to determine the special educational provision that should be made for him, it shall make an assessment of his educational needs under this Article.

(3) Assessments under this Article shall be made in accordance with Part I of Schedule 11 and the other provisions of that Part shall apply to assessments under this Article.

(4) This Article applies to a child who—

(a) has attained the age of two years; and

(b) is either in attendance at a grant-aided school or has been brought to the attention of the board as having, or probably having, special educational needs.

Children under two years of age

30.—(1) Where, in the case of a child in its area who has not attained the age of two years, a board is of the opinion that he has, or probably has, special educational needs which call for the board to determine the special educational provision that should be made for him, the board may, with the consent of the child's parent, and shall, at the request of the parent, make an assessment of the child's educational needs.

(2) An assessment under this Article shall be made in such manner as the board considers appropriate.

(3) After making an assessment under this Article, a board may make a statement of the child's special educational needs and maintain that statement in such manner as it considers appropriate.

Statement of child's special educational needs

31.—(1) Where a board has made an assessment of a child's educational needs under Article 29 and is of the opinion that it should determine the special educational provision that should be made for him, the board shall make a statement of his special educational needs and maintain that statement in accordance with Part II of Schedule 11 and the other provisions of that Part shall apply to statements under this Article.

(2) In any case where a board maintains a statement under this Article in respect of a child, the board shall arrange for the special educational provision specified in the statement to be made for him.

(3) A board may, subject to the approval of the Department, arrange under paragraph (2) for the special educational provision for a child to be made otherwise than at a grant-aided school.

Provision of special education in ordinary schools

32.—(1) Where a board arranges special educational provision for a child for whom it maintains a statement under Article 31 it shall be the duty of the board, if the conditions mentioned in paragraph (2) are satisfied, to secure that he is educated at an ordinary school.

(2) The conditions referred to in paragraph (1) are that account has been taken, in accordance with Part II of Schedule 11, of the views of the child's parent and that educating the child at an ordinary school is compatible with—

- (a) his receiving the special educational provision that he requires;
- (b) the provision of efficient education for the children with whom he will be educated; and
- (c) the efficient use of resources.

(3) A board, in the case of a controlled school, or the managers, in the case of a voluntary school, shall—

- (a) use their best endeavours, in exercising their functions in relation to an ordinary school to secure that if any child attending the school has special educational needs the special educational provision that is required for him is made;
- (b) secure that, where the principal of the school has been informed by the board that a child attending the school has special educational needs, those needs are made known to all who are likely to teach him; and
- (c) secure that the teachers in the school are aware of the importance of identifying, and providing for, those children attending the school who have special educational needs.

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(4) Where a child who has special educational needs is being educated at an ordinary school, those concerned with making special educational provision for that child shall, so far as is both compatible with the objectives mentioned in sub-paragraphs (a) to (c) of paragraph (2) and reasonably practicable, secure that the child engages in the activities of the school together with children who do not have special educational needs.

Interpretation of "special educational needs" and related expressions

33.—(1) In this Order "special educational provision" means educational provision for a child which is additional to, or otherwise different from, the educational provision made generally for children of his age at ordinary schools.

(2) For the purposes of this Order a child has "special educational needs" if he has a learning difficulty which calls for special educational provision to be made for him; and a child has a "learning difficulty" if—

- (a) he has a significantly greater difficulty in learning than the majority of children of his age; or
- (b) he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided at ordinary schools for children of his age; or
- (c) he is under the age of five years and is, or would be if special educational provision were not made for him, likely to fall within sub-paragraph (a) or (b) when over that age.

(3) In Articles 29 to 32, this Article and Schedule 11 and in any other provision of this Order relating to a child who has special educational needs, "child" includes any person who has not attained the age of 19 years and is in attendance at a school.

(4) In Article 32 and this Article "ordinary school" means a grant-aided school which is not a special school.

Regulations as to special schools

34.—(1) The Department may by regulations prescribe requirements to be complied with by a school as a condition of approval of the school as a special school, may provide for the withdrawal of such approval from a special school which fails to comply with those requirements and may impose requirements as to the organisation of a special school as a primary school or as a secondary school.

(2) Regulations under paragraph (1) shall secure that so far as is practicable every pupil in attendance at a special school shall attend collective worship and religious instruction or be withdrawn from attendance at such worship or instruction in accordance with the wishes of his parent.

Duties of boards as to children unsuitable for education at school

35. Each board shall, in accordance with the provisions of Schedule 12, determine the children in its area who are unsuitable for education at school and shall comply with that Schedule in relation to such children.

Duties of health and social services boards

36.—(1) If a health and social services board, in the course of exercising any of its functions in relation to a child who has not attained the age of five years, forms the opinion that he has, or probably has, special educational needs or that he is suffering from a disability of mind that may make him unsuitable for education at school that board shall—

- (a) inform the child's parent of its opinion and of its duty under this Article; and
- (b) after giving the parent an opportunity to discuss that opinion with an officer of the health and social services board, bring it to the attention of the appropriate education and library board.

(2) If, in a case falling within paragraph (1), the health and social services board is of the opinion that a particular voluntary organisation is likely to be able to give the parent advice or assistance in connection with any disability of mind or any special educational needs that the child may have, that board shall inform the parent accordingly.

(3) Where a child or young person in the area of a board is about to leave or has left school and it appears to the board that his physical, intellectual, emotional or social development is such as to require that in his interests further care, treatment or supervision should be provided, the board shall notify the health and social services board for the area in which the child resides and furnish such report or information relating to him as that board may require.

Recreational, social, physical, cultural and youth service activities

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

37.—(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;

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(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.

1824 c. 83

(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.

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

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the school having regard to the ages and sex 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;

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.

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, appeal therefrom to the county court having jurisdiction for the place where the school in respect of which the notice of complaint was served is situated.

(2) The court by which any appeal under this Article is heard 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 court 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 the county court 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 whether before or after the coming into operation of this Article by the county court 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.

1979 NI 12

(7) Every order of a county court 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.

Enforcement

41.—(1) Where an order is made by the Department or by a county court 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

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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.

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.

1944 c. 31
1980 c. 44

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 county court having jurisdiction for the place where the school in respect of which the order was made is situated.

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. In the exercise and performance of all powers and duties conferred or imposed on them by this Order, 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.

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.

Compulsory school age

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

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

(a) on any date occurring in the period beginning on 1st September in any year and ending on 31st January in the following year he shall be deemed not to have attained the upper limit of compulsory school age until the date on which the spring term at his school in that following year ends 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 1st February in any year and ending on 31st August in that 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, the Friday before the last Monday in May in that year or such other date as the Department may, by order subject to affirmative resolution prescribe.

(3) The Department may by regulations prescribe dates for the commencement of school attendance of a child on attaining the lower limit of compulsory school age.

(4) This Article shall have effect for the purposes of any statutory provision whereby the definition of compulsory school age in this Order or in any earlier enactment superseded by this Order is applied or incorporated.

(5) In this Article—

“school” in relation to a person means the last school at which he is a registered pupil for the term in question or for part of that term;

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“spring term” in any year means the last term to end before 1st May in that year.

Presumption as to age

47. Where in any proceedings under this Order 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.

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 of compulsory school age 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 this Order 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 but a child who is registered at a special school under arrangements made by a board and has not attained the upper limit of compulsory school age shall not be withdrawn from the school without the consent of the board for the area in which the child ordinarily resides.

(4) Where a board, on an application by the parent of a child registered at a special school, refuses to give its consent to the withdrawal of the child from the school, the parent may refer the matter to the Department and the Department may give such direction thereon as it thinks fit.

Suspension 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 managers of a voluntary school shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school under their management.

(3) A scheme prepared under paragraph (1) or (2) shall include provision for such matters as may be prescribed.

*Provisions to assist persons to take advantage of
educational facilities*

Provision of awards by boards

50.—(1) It shall be the duty of boards to make awards to, or in respect of, such persons or persons of such description as are specified in regulations for the purpose of enabling or encouraging those persons to take advantage of such educational facilities as are specified in the regulations or designated by the Department for the purposes of the regulations.

(2) Regulations under paragraph (1) may specify the amount of the awards to be made thereunder and the terms and conditions subject to which they are to be made and shall, if they so provide, have effect from a date prior to the date on which they are made.

(3) A board may make such other 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.

Provision of awards by Department

51.—(1) The Department may make awards to, or in respect of, persons in respect of their attendance at courses at universities, colleges or other institutions being courses for the initial or further training of teachers or postgraduate courses or courses which, in the opinion of the Department, are comparable to postgraduate courses and may make 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) The Department may, by regulations, specify for the purpose of such cases as it considers desirable the persons or persons of such description to, or in respect of, whom awards may be made under this Article and the terms, conditions and amounts of such awards and such regulations shall, if they so provide, have effect from a date prior to the date on which they are made.

*Provision of transport for, and payment of travelling expenses of,
pupils*

52.—(1) For the purposes of facilitating the attendance of pupils at a grant-aided school and such pupils as the Department may from time to time specify at an institution of further education or the

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University of Ulster, a board shall, with the approval of the Department, make such arrangements for the provision of transport as the board considers necessary for such pupils and transport provided under such arrangements shall be provided free of charge.

(2) Where, after the requirements of pupils for whom transport is provided under paragraph (1) have been met, there are vacant places in any vehicle used for such transport, the board may allow those vacant places to be used by other pupils selected by the board.

(3) A board may, with the approval of the Department, pay the whole or part, as the board thinks fit, of the reasonable travelling expenses of pupils in attendance at a grant-aided school, and such pupils as the Department may from time to time specify in attendance at an institution of further education or the University of Ulster.

(4) For the purposes of facilitating the attendance of pupils at a grant-aided school or institution, a board may, with the approval of the Department, make, repair, improve or maintain a footpath, footbridge or other means of approach to the school or institution or may make a contribution towards the cost of doing so.

(5) 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.

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, so 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.

Assistance to pupils attending courses of further education

55.—(1) Under arrangements approved by the Department, a board may, in respect of any pupil ordinarily resident within its area who has not attained the age of eighteen years and is attending a full-time day course of further education—

- (a) exempt the pupil from payment of fees in respect of his attendance at such a course in an institution of further education managed by the board;
- (b) pay in respect of such a pupil's attendance at such a course at the University of Ulster or at an institution of further education managed by another board any fees due to that University or institution;
- (c) provide such a pupil free of charge with books, writing material, stationery, instruments, practice material and such other articles as are necessary to enable him to take full advantage of such a course;
- (d) pay any necessary examination fees payable by such a pupil in connection with such a course;
- (e) pay the whole or part of the cost of board and lodging for any such pupil attending such a course where, in the opinion of the board, it is necessary for the pupil to reside away from home;

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and sub-paragraphs (c), (d) and (e) shall apply whether the course is held within or outside the area of the board.

(2) For the purposes of this Article, a pupil shall be deemed not to have attained the age of eighteen years until the 31st July next following the date upon which he attained that age.

Prohibition of fees in primary, intermediate and special schools

56.—(1) Subject to paragraphs (2) and (3), fees shall not be charged to a parent in respect of the admission of any pupil to a primary, intermediate or special school or in respect of the education provided for the pupil at such a school.

(2) The Board of Governors of a school to which Schedule 10 applies which in accordance with paragraph 2 or 4 of that Schedule becomes a maintained school may charge a fee, not exceeding such amount as may be prescribed, for the purpose of meeting expenditure incurred or to be incurred for the provision or alteration of the premises of the school.

(3) The Board of Governors of a direct grant voluntary intermediate school may charge a fee not exceeding such amount as may be prescribed for the purpose of meeting expenditure incurred or to be incurred for—

- (a) the provision or alteration of the premises of the school; or
- (b) the provision of equipment for the school.

(4) Where a pupil in attendance at a primary, intermediate or special school is provided at the school with board and lodging, fees may, subject to paragraphs (5) and (6), be charged in respect of the board and lodging; but if the school is a voluntary school the amount of the fees shall be subject to the approval of the Department.

(5) Where a board considers that a pupil resident within its area should be a boarder at a primary or intermediate school but that the parents of the pupil cannot without hardship pay the fees chargeable under paragraph (4) the board, in accordance with arrangements approved by the Department, shall—

- (a) if the school is under the management of the board, remit the fees in whole or in part;
- (b) if the school is under the management of another board or is a voluntary school, pay to the other board or the managers of the voluntary school the whole or part of the fees.

(6) Where a board is of opinion that a pupil resident in its area should be provided with board and lodging at a special school, the board shall—

- (a) if the school is under the management of the board, remit the whole of the fees chargeable for board and lodging;
- (b) if the school is under the management of another board or is a voluntary school pay, on behalf of the parent, to the other

board or the managers of the voluntary school the whole of the fees chargeable for board and lodging.

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

57.—(1) A board shall, in accordance with a scheme framed by the board and approved by the Department, provide free of charge for all pupils at primary, intermediate (except direct grant voluntary intermediate) and special schools, and such pupils at controlled grammar schools as are specified in the scheme, books, writing material, stationery, instruments, practice material and other articles which are necessary to enable the pupils to take full advantage of the education provided.

(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 and direct grant voluntary intermediate schools;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

(2) A board may, 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 institutions of further education;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the institution by pupils.

(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

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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 (2) or (3).

(5) The trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school 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 or a direct grant voluntary intermediate school 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 or a direct grant voluntary intermediate school in the carrying out of their functions under paragraphs (5) and (6).

Provisions supplementary to Article 58

59.—(1) The approval of the Department to any arrangements under paragraph (1), (2), (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) The board or (as the case may be) the trustees or Board of Governors of a voluntary grammar school or direct grant voluntary intermediate school 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, direct that paragraph (1) or (5) of Article 58 shall not apply to a board or (as the case may be) to the trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school.

(4) The board or (as the case may be) the trustees or Board of

Governors of a voluntary grammar school or a direct grant voluntary intermediate school 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 or a direct grant voluntary intermediate school, 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.

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

60.—(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.

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

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reasonable facilities for the medical and dental inspection and supervision of pupils in attendance at such schools.

(2) In paragraph (1), medical and dental inspection and supervision means such inspection and supervision carried out by virtue of the duty imposed by or under any enactment on the Department of Health and Social Services to provide such inspection and supervision.

Power of Department as to medical examination

62.—(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 this Order, 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.

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 but may be so employed only from the following dates—

- (a) if the child attains the age of fifteen years on any date occurring in the period beginning on 1st September in any year and ending on 31st January in the following year, at any time on or after the date on which the summer term at his school in that following year begins;
- (b) if the child attains the age of fifteen years on any date occurring in the period beginning on 1st February and ending on 31st August in any year, at any time on or after the date on which the autumn term at his school in that year begins.

(3) In paragraph (2)—

“autumn term” in any year means the last term to end before 31st December in that year;

“summer term” in any year means the last term to end before 1st September in that year;

“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.

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.

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(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 and institutions of further education under its management and may, with the approval of the Department, employ teachers otherwise than on the staff of a particular school or institution of further education.

(2) A teacher employed under paragraph (1) otherwise than on the staff of a particular school or institution of further education 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 or institutions of further education or otherwise than in a school or institution or a teacher employed by a board for the purpose of making special educational provision whether in a school or otherwise; or
- (b) a teacher (to be called a “supply teacher”) employed by a board for the purposes of temporarily filling vacancies which may arise in the staffs of grant-aided schools or institutions of further education.

Training of teachers

66.—(1) The Department shall make such arrangements as it considers expedient for securing that there shall be available sufficient facilities for the initial and further training of teachers for service in schools and other educational establishments in Northern Ireland.

(2) The Department may—

- (a) 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.

(3) 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.

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(4) Regulations under paragraph (3) may make provision for the repayment, in such circumstances as are specified in the regulations, of the whole or part of any moneys paid under that paragraph, but such regulations shall not apply to cases to which paragraph (5), (6) or (7) applies.

(5) Where any premises of a college of education in respect of which the Department, at any time after 1st August 1984, has paid a grant under paragraph (3) cease to be used for approved purposes of a college of education there shall be payable to the Department by the persons to whom the grant was paid or their successors 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 as aforesaid until the date of payment to the Department.

(6) Where any site which has been acquired for the purposes of a college of education and in respect of which site the Department has, at any time after 1st August 1984, paid a grant under paragraph (3) ceases in the opinion of the Department to be required for such purposes, there shall be payable to the Department by the persons to whom the grant was paid or their successors in title such sum as the Department considers equitable but not exceeding such proportion of the value of the site as the proportion that the amount of the grant was of the approved cost of the acquisition of the site together with interest on that sum from the date on which the site so ceased to be required until the date of payment to the Department.

(7) Where the Department proposes to pay a grant under paragraph (3) in respect of premises for a new college of education or of alterations of premises used or to be used as or for a college of education and the new or altered premises in the opinion of the Department replace any premises of an existing college of education the Department may either—

- (a) reduce the amount of the grant so payable by such amount as the Department considers equitable; or
- (b) attach to the grant a condition that when the replaced premises cease to be used for approved purposes of a college of education, there shall be payable to the Department by the persons to whom the grant was paid or their successors in title such amount as the Department considers equitable.

(8) The amount by which a grant may be reduced under paragraph (7)(a) or the amount payable to the Department under paragraph (7)(b) shall consist of a sum not exceeding such proportion of the value of the replaced premises as the proportion that the amount of the grant is or was of the approved cost of the provision of the new or altered premises together with interest on that sum from the date on which the premises ceased to be used as aforesaid until the date of

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the payment of the grant under paragraph (7)(a) or, as the case may be, the payment to the Department under paragraph (7)(b).

(9) For the purposes of paragraphs (5), (6) and (8) the value of premises or a site shall be taken to be the amount which the premises or site might be expected to realise if sold in the open market on the date on which the premises ceased to be used or the site ceased to be required as aforesaid 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.

1972 c. 9 (N.I.)

(10) For the purpose of paragraphs (5), (6) and (8) 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.

(11) Any sum payable to the Department under this Article may be recovered as a debt due to the Department.

Control of numbers, qualifications, etc. of students

67.—(1) The Department 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 or the board responsible for the management of an institution of further education 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.

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 provi-

sions of Part III of that Schedule shall apply to the appointment of a peripatetic teacher or a supply teacher.

Salaries of teachers

69.—(1) The Department shall prescribe rates of salaries for teachers in grant-aided schools and institutions of further education and in colleges of education and for peripatetic and supply teachers.

(2) Where any question arises as to the rate of salary or allowances to be paid under paragraph (1) to a teacher, the decision of the Department shall, except on a point of law, be final.

(3) The Department shall, except where regulations otherwise provide, pay the salaries and allowances (if any) of teachers—

(a) employed by a board;

(b) employed by any person other than a board in a grant-aided school;

and any such regulations shall specify any person (other than the Department) by whom the salaries and allowances (if any) are to be paid and the categories of teachers for the payment of whose salaries and allowances (if any) that person has responsibility.

(4) Regulations under paragraph (1) may make provision—

(a) for such allowances in addition to salary as are specified in the regulations;

(b) for salaries and allowances to be calculated in such cases as the Department thinks proper by reference to a determination of the Department (however expressed).

Qualifications, and terms and conditions of employment, of teachers

70.—(1) Every person appointed to teach in a grant-aided school or institution of further education shall have such qualifications as may be approved by the Department.

(2) The Department may make regulations as to the terms and conditions of employment of teachers in grant-aided schools and institutions of further education.

(3) The terms upon which a teacher (other than a temporary or part-time teacher) is employed in a grant-aided school or institution of further education shall be set out in an agreement entered into between the teacher and the employer and the agreement shall be in such form as may be approved by the Department.

(4) The provisions of this Article shall apply to peripatetic teachers and supply teachers in like manner as they apply to teachers in grant-aided schools and institutions of further education.

Interchange of teachers with teachers outside Northern Ireland

71. The Department may make regulations enabling teachers in grant-aided schools or institutions of further education or colleges of

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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.

Redundancy payments to teachers by managers of voluntary schools

1965 c. 19 (N.I.)

72.—(1) Where the managers of a school of a class referred to in paragraph (2) have, under section 11 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 made a redundancy payment (as defined by that Act) to a teacher who has been employed by them, the Department may pay to those managers a sum equal to the appropriate percentage of the net amount of the redundancy payment made by them.

(2) The classes of school for the purposes of paragraph (1) are voluntary primary schools, voluntary intermediate schools and voluntary special schools and the appropriate percentage for those purposes is one hundred per cent. where the school is a maintained school or a direct grant voluntary intermediate school and sixty-five per cent. in any other case.

(3) The reference in paragraph (1) to the net amount of a redundancy payment is a reference to the sums paid by the managers as a redundancy payment less the amount of any rebate (as defined in the said Act of 1965) in respect of the payment which they are entitled to under that Act.

PART VII

LIBRARY SERVICES

Provision of library services by boards

73.—(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 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, books and other printed matter, and pictures, gramophone records, films and other 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.

Development schemes

74.—(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.

Standards of library premises

75. Each board shall secure that premises provided or maintained

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by it for the purposes of its functions as a library authority shall conform to such standards as the Department may direct.

Contributions between boards in respect of library services

76.—(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.

Charges for library services

77.—(1) A board may make charges—

- (a) for notifying a person that a book or other article has become available for borrowing;
- (b) in respect of the failure to return a book or other article before the end of the period for which it is lent;
- (c) in respect of the borrowing of articles other than books, pamphlets or similar articles;
- (d) for supplying book catalogues or indexes or any similar articles where the articles become the property of the person to whom they are supplied; and
- (e) when providing facilities beyond those ordinarily provided by the board as part of its library service.

(2) A board shall not make any charge other than those authorised by paragraph (1) nor charge a person resident or working outside the area of the board if it would not be entitled to charge a person resident or working within that area and shall not charge more to the former than in the circumstances it would be entitled to charge the latter.

Bye-laws in respect of use of library facilities

78.—(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 premises where those facilities are provided.

(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 premises maintained by the board under this Order any person who contravenes the bye-laws.

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, on such conditions and at such rates as the Department may determine, 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.

(2) Paragraph (1) shall apply to members of—

- (a) a Board of Governors of a controlled school;
- (b) a Board of Governors of a maintained school; and
- (c) a management committee of an institution of further education,

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.

Payments in respect of official visits, etc.

80. A board may, at such rates as the Department approves,—

- (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.

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.

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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.

1972 c. 9 (N.I.)

Officers of boards

83.—(1) Subject to the provisions of paragraph (2), each board shall appoint a fit person to be—

- (a) the chief officer of the board who shall also be the chief education officer of the board and who shall act as secretary to the board;
- (b) the chief librarian of the board who shall also act as secretary to the library committee of the board.

(2) A board shall not appoint a chief officer of the board or a chief librarian unless the Department, after consultation with the Staff Commission, approves the appointment and shall, in order to obtain such approval,—

- (a) consult the Department regarding the qualifications and previous experience to be required of candidates for appointment;
- (b) advertise the post in such manner as the Department may approve or direct;
- (c) send to the Department the names, qualifications and previous experience of all applicants for appointment, indicating the names of those applicants from whom the board proposes to make the final selection.

(3) The Department may determine the qualifications required for appointment to such offices as the Department considers appropriate.

(4) The Department may direct that officers of the board of such class or description as may be specified in the direction shall not be removed from office, and that their remuneration shall not be fixed or altered, without the approval of the Department.

(5) Subject to the foregoing provisions of this Article, a board may

appoint officers for any of the purposes of this Order and may from time to time remove any of those officers.

(6) Two or more boards may, with the approval of the Department, arrange for the appointment of the same person to be an officer of both or all those boards.

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.

1972 c. 9 (N.I.)

Insurance against risks by boards

86. 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.

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.

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(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, other than teachers or persons employed in connection with the school meals service, required in or about 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.

(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 not, for any purpose, be regarded as being carried out on behalf of or in the name of the board.

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, on giving six months notice to the occupant, 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.

(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—

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- 1978 NI 20 (a) the Rent (Northern Ireland) Order 1978 shall not apply;
- 1981 NI 26 (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.

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

90.—(1) In this Article—

- 1875 c. 82 "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) 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.

1964 c. 33 (N.I.)

Arrangements between boards

91.—(1) Subject to paragraph (2), a board may provide in any school or institution of further education under its management educational facilities for pupils of any other school or institution under its management or under the management of another board or for persons resident in the area of another board.

(2) A board shall before providing educational facilities for pupils of any school or institution under the management of another board or for persons resident in the area of another board obtain the consent of that other board.

(3) Where a board provides educational facilities for pupils of a school or institution under the management of another board or for persons resident in the area of another board, that other board shall pay such a contribution, if any, to the board providing the facilities as may be agreed between the boards or, in default of agreement, as may be determined by the Department.

Power of boards as to research and conferences

92.—(1) A board may, with the approval of the Department, make, by financial contribution or otherwise, provision, either alone or together with any other board or person, for conducting, or assisting the conduct of, research.

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(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 this Order 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) at such rates as the Department may determine, 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 this Order, other than expenses in respect of which payment may be made under Article 79.

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 to 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 chief officer 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.

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

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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, state-

ment, particulars or documents so supplied shall be privileged unless the publication is proved to be made with malice.

(2) 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. 1955 c. 11 (N.I.)

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. Any dispute arising between boards as to their respective functions under this Order shall be referred to the Department and any such dispute so referred shall be determined by the Department whose determination shall be final.

Determination of disputes between a board and trustees or managers of voluntary school

100. Any dispute arising between a board and the trustees or managers of a voluntary school with respect to the exercise of the powers conferred or the performance of any duty imposed by or under this Order may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent on the opinion of the board or of the trustees or managers, be referred either by the board or the trustees or managers to the Department and any such dispute so referred shall be determined by the Department whose determination shall be final.

Power of Department to prevent unreasonable exercise of functions

101.—(1) If the Department is satisfied, either on complaint by any person or otherwise, that a board has or the trustees or managers of a voluntary school have acted or is or are 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 this Order, the Department may, notwithstanding the provisions of any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the board or of the trustees or managers, give such directions as to the exercise of the power or the performance of the duty as appear to the Department to be expedient.

(2) Where a board fails or the trustees or managers of a voluntary

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school fail to carry out any of its or their functions under this Order, the Department may direct it or them to carry out those functions and the direction may specify how the functions are to be carried out.

(3) It shall be the duty of a board and the trustees or managers of a voluntary school to comply with any directions given to it or to them under paragraph (1) or (2) and any such directions may be enforced by mandamus.

(4) Where the Department is satisfied that a board has failed to discharge any of its functions under this Order, the Department may make an order appointing a person or persons to discharge, in the name of the board, all the functions of the board or such functions as may be specified 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 board.

(5) So long as an order under paragraph (4) remains in force the functions of the board or such functions as are specified in the order shall be performed by the person or persons appointed by the order and shall not be performed by the board.

(6) The remuneration and expenses of a person or persons appointed by an order made under paragraph (4) 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 board under this Order.

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(7) The Statutory Rules (Northern Ireland) Order 1979 shall not apply to any order made under paragraph (4).

Inspections by inspectors and other officers of Department

102. Every school, every college of education and every grant-aided institution and establishment and every institution and establishment which is established, maintained or managed by a board or the activities of which are organised by a board shall be open at all reasonable times to inspection by inspectors and other officers of the Department.

Reports and returns

103.—(1) Every board, the trustees and managers of every school, the managers or governing body of every grant-aided educational institution and the Northern Ireland Schools Examinations Council shall make such reports and returns, and give such information, to the Department as the Department may reasonably require for the purposes of its functions under this Order.

(2) The trustees and managers of every school shall make such reports and returns, and give such information, to boards as the boards may reasonably require for the purpose of their functions under this Order.

Annual report to the Assembly

104. The Department shall make to the Assembly an annual report giving an account of the exercise of the functions conferred on it by this Order.

Acquisition by Department of land

105.—(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 this Order 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). 1933 c. 6 (N.I.)

(4) Where the Department desires for the purposes of this Order 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. 1972 c. 9 (N.I.)

(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.

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(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 the Historic Monuments Act (Northern Ireland) 1971.

1971 c. 17 (N.I.)

(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 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.

Functions of boards in relation to land

106.—(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 this Order or which it considers is required for the purposes of a maintained school or for the purposes of a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement under Schedule 6 or for the purposes of a direct grant voluntary intermediate school, 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.

1972 c. 9 (N.I.)

(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 reversion 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 this Order 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

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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.

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.

Inquiries and investigations

108. The Department may cause such local and other inquiries to be held or investigations to be made as the Department thinks expedient for the purposes of this Order or in connection with any function of a board or a committee or sub-committee thereof.

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

109. 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 this Order.

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 this Order 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 this Order or the principles on which the board is required to conduct schools provided by it.

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 expenses incurred by it in accordance with a financial scheme approved under Article 113.

(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.

Financial schemes of boards

113.—(1) Each board shall, at such times, in such form and in respect of such periods as the Department may direct, submit to the Department financial schemes showing in relation to each such period the amounts of the estimated payments and receipts of the board in respect of its functions under this Order and the Department may approve any such scheme with or without modifications in respect of such periods as the Department considers appropriate.

(2) A board may at any time where necessary submit a supplementary or revised financial scheme to the Department and the Department may approve any such scheme with or without modifications.

(3) A board shall not incur expenditure otherwise than in accordance with a financial scheme approved by the Department under this Article.

Grants to boards

114. The Department may pay to a board grants equal to the approved net expenditure incurred by the board in accordance with financial schemes approved under Article 113(1) or (2).

Grants to persons other than boards

115.—(1) The Department may, in accordance with regulations made with the approval of the Department of Finance and Personnel,

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pay grants to persons other than boards in respect of expenditure incurred or to be incurred for the purposes of educational or library services or recreational, social, cultural, physical or youth service activities or services ancillary to education provided by them or on their behalf or under their management or for the purpose of research relevant to the functions of the Department or of boards under this Order.

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

(3) Without prejudice to the generality of paragraph (1), regulations under that paragraph may make provision for the payment by the Department in accordance with those regulations—

(a) to the managers of voluntary schools grants equal to the amount of the expenditure incurred or to be incurred by them in the payment of such employers' superannuation contributions in respect of such teachers employed by them as may be specified in the regulations;

(b) to the Boards of Governors of maintained schools or of direct grant voluntary intermediate schools grants equal to, and to the managers of other voluntary schools grants equal to sixty-five per cent. of, the amount of the expenditure incurred or to be incurred by them in the payment of secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 in respect of such teachers employed by them as may be specified in the regulations.

1975 c. 15

(4) This Article does not apply to the trustees or Board of Governors of a direct grant voluntary intermediate school, except in so far as it empowers the Department—

(a) to pay grants in respect of expenditure incurred or to be incurred for the purposes of the provision of milk, meals or other refreshment and facilities in accordance with Articles 58 and 59;

(b) to make such grants as are referred to in paragraph (3)(a) and (b).

(5) This Article does not apply to the trustees or Board of Governors of a voluntary grammar school, except in so far as it empowers the Department to pay grants in respect of expenditure incurred or to be incurred for the purposes of the provision of milk, meals or other refreshment and facilities in accordance with Articles 58 and 59.

Building and equipment grants for voluntary schools

116.—(1) Subject to Article 15 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) eighty-five per cent. of that expenditure where, when that expenditure is incurred, the school is a maintained school or is a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement with the Department under Schedule 6 or is a direct grant voluntary intermediate school; or
 - (ii) sixty-five per cent. of that expenditure where, when that expenditure is incurred, the school is not such a school as is referred to in head (i);
- (b) incurred for the provision of equipment for a voluntary school other than a maintained school a sum equal to—
- (i) eighty-five per cent. of that expenditure where, when the expenditure is incurred, the school is a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement with the Department under Schedule 6 or is a direct grant voluntary intermediate school;
 - (ii) sixty-five per cent. of that expenditure where, when the expenditure is incurred, the school is not such a school as is referred to in head (i).

(2) Where a building contract entered into for the provision of a new school or the alteration of an existing school provides for payment by instalments, the date on which an instalment is paid under the contract may, for the purposes of paragraph (1), be taken as the date on which expenditure of the amount of that instalment has been incurred.

(3) For the purposes of this Article, any question as to whether expenditure was incurred on or after a particular date shall be determined by the Department.

(4) Regulations made under paragraph (1) may make provision for the repayment, in such circumstances as are specified in the regulations, of the whole or part of any moneys paid under this Article but such regulations shall not apply to cases to which paragraph (5), (6) or (7) applies.

(5) Where any premises of a school in respect of which the Department, at any time after 8th August 1978, has paid a grant under paragraph (1)(a) cease to be used for approved purposes of a grant-aided school, there shall be payable to the Department by the persons to whom the grant was paid or their successors 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 as aforesaid until the date of payment to the Department.

(6) Where any site which has been acquired for the purposes of a grant-aided school and in respect of which site the Department has,

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at any time after 8th August 1978, paid a grant under paragraph (1)(a) ceases in the opinion of the Department to be required for such purposes, there shall be payable to the Department by the persons to whom the grant was paid or their successors in title such sum as the Department considers equitable but not exceeding such proportion of the value of the site as the proportion that the amount of the grant was of the approved cost of the acquisition of the site together with interest on that sum from the date on which the site so ceased to be required until the date of payment to the Department.

(7) Where the Department proposes to pay a grant under paragraph (1)(a) in respect of premises for a new school or of alterations of premises used or to be used as or for a school and the new or altered premises in the opinion of the Department replace any premises of an existing school the Department may either—

- (a) reduce the amount of the grant so payable by such amount as the Department considers equitable; or
- (b) attach to the grant a condition that when the replaced premises cease to be used for approved purposes of a grant-aided school, there shall be payable to the Department by the persons to whom the grant was paid or their successors in title such amount as the Department considers equitable.

(8) The amount by which a grant may be reduced under paragraph (7)(a) or the amount payable to the Department under paragraph (7)(b) shall consist of a sum not exceeding such proportion of the value of the replaced premises as the proportion that the amount of the grant is or was of the approved cost of the provision of the new or altered premises together with interest on that sum from the date on which the premises ceased to be used as aforesaid until the date of the payment of the grant under paragraph (7)(a) or, as the case may be, the payment to the Department under paragraph (7)(b).

(9) For the purposes of paragraphs (5), (6) and (8), the value of premises or a site shall be taken to be the amount which the premises or site might be expected to realise if sold in the open market on the date on which the premises ceased to be used or the site ceased to be required as aforesaid 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.

(10) For the purposes of paragraphs (5), (6) and (8), 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.

1972 c. 9 (N.I.)

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

Grants to voluntary grammar schools

117.—(1) The Department may make grants to the Board of

Governors of a voluntary grammar school towards expenditure incurred in carrying on the school, except—

- (a) expenditure incurred for the provision or alteration of the premises of the school; and
- (b) expenditure incurred for the provision of equipment for the school which is approved expenditure for the purposes of Article 116(1)(b).

(2) Grants under this Article shall be made on such conditions as the Department may determine.

Grants to direct grant voluntary intermediate schools

118.—(1) The Department may make grants to the Board of Governors of a direct grant voluntary intermediate school towards expenditure incurred in carrying on the school, except—

- (a) expenditure incurred for the provision or alteration of the premises of the school;
- (b) expenditure incurred for the provision of equipment for the school which is approved expenditure for the purposes of Article 116(1)(b);
- (c) expenditure incurred in the payment of employers' superannuation contributions and secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 in respect of teachers employed on the staff of the school; and
- (d) expenditure incurred in making a redundancy payment under section 11 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 to a teacher who has been employed on the staff of the school.

1975 c. 15

1965 c. 19 (N.I.)

(2) Grants under this Article shall be made on such conditions as the Department may determine.

Accounts and audit

119.—(1) Each board shall keep in such form as the Department may direct accounts of all moneys received and of all moneys paid out by it.

(2) In respect of each financial year—

- (a) each board shall prepare and submit annually to the Comptroller and Auditor General for Northern Ireland a statement of accounts before such date, in such form and containing such information as the Department, with the approval of the Department of Finance and Personnel, may direct and shall before that date send a copy thereof to the Department;
- (b) the Comptroller and Auditor General for Northern Ireland shall examine and certify the statement of accounts submitted to him by each board; and
- (c) the Department shall lay before the Assembly a copy of the certified statement of accounts of each board together with a

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copy of any report thereon of the Comptroller and Auditor General for Northern Ireland and a copy of a summary of the certified statements of accounts of the boards prepared by the Department in such form as the Department of Finance and Personnel may approve.

(3) The Comptroller and Auditor General for Northern Ireland in the discharge of his functions under this Article shall have right of access to the books, accounts and records of the Department and the boards and may require from any member or officer or former member or officer of a board such information relating to the affairs of the board as he may consider necessary for the proper performance of those functions.

PART IX

EXAMINATIONS COUNCIL

Northern Ireland Schools Examinations Council

120.—(1) There shall be a body, to be known as the Northern Ireland Schools Examinations Council (in this Part referred to as “the Council”), which shall have such functions, in relation to examinations for pupils receiving secondary education and others, as are conferred on it by or under the succeeding provisions of this Order.

1954 c. 33 (N.I.)

(2) The Council shall be a body corporate to which, subject to the provisions of this Order, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

(3) The constitution of the Council shall be as provided in that behalf in Part I of Schedule 17 and the supplementary provisions contained in Part II of that Schedule shall have effect with respect to the Council.

Functions of Council

121. Without prejudice to any other provision of this Order, the functions of the Council shall be—

- (a) to advise the Head of the Department on such matters relating to examinations for pupils receiving secondary education as he may from time to time refer to it or as the Council may think fit;
- (b) to conduct, and award the appropriate certificates for, the relevant examinations, in accordance with such rules as the Council may determine.

Power of Department to give directions

122. The Department may, from time to time, after consultation with the Council, give such directions as to the discharge by the Council of its functions as appear to the Department to be desirable.

Estimates of receipts and payments

123.—(1) The Council shall prepare and submit to the Department, on or before such date in each year as the Department may determine and in such form and containing such particulars as the Department may require, estimates of its receipts and payments for the succeeding financial year, and the Department may approve the estimates in whole or in part or with such modifications as, after consultation with the Council, it thinks fit.

(2) The expenditure of the Council shall be in accordance with estimates approved under paragraph (1), but where the Department is satisfied that any expenditure not provided for by the estimates has been, or will be, reasonably and properly incurred in any financial year, the Department may sanction such expenditure notwithstanding that it is not provided for by the estimates.

Grants to Council

124. The Department may pay to the Council grants of such amount as the Department may determine towards expenditure incurred or to be incurred by the Council.

Accounts, audit and annual report

125.—(1) The Council shall keep proper accounts and other records and shall prepare and transmit to the Comptroller and Auditor General for Northern Ireland, on or before such date in each year as the Department may determine, statements of account in respect of the financial year then last previously occurring, in such form and containing such information as the Department, after consultation with the Department of Finance and Personnel, may require.

(2) The Comptroller and Auditor General for Northern Ireland shall examine and certify the statements of account and submit a report thereon to the Council and the Department; and the Department shall lay copies of the accounts together with the report of the Comptroller and Auditor General for Northern Ireland before the Assembly.

(3) The Comptroller and Auditor General for Northern Ireland in the discharge of his functions under this Article shall have right of access to the books, accounts and records of the Council and may require from any member or officer or former member or officer of the Council such information relating to the affairs of the Council as he may consider necessary for the proper performance of those functions.

(4) The Council shall prepare and transmit to the Department an annual report on the conduct of the relevant examinations and on the exercise by the Council of its functions, and the Department shall lay a copy of that report before the Assembly.

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Interpretation of this Part, etc.

126.—(1) In this Part and Schedule 17—

“the Council” has the meaning assigned to it by Article 120(1);

“financial year” means a period of twelve months ending on such date as the Council may, with the approval of the Department determine;

“the relevant examinations” means—

(a) examinations for the Northern Ireland General Certificate of Education;

(b) examinations for the Northern Ireland Certificate of Secondary Education; and

(c) such other examinations as the Department, after consultation with the Council, may determine.

(2) The Department may, by an order made subject to affirmative resolution, amend, whether by addition, omission or variation, any provision contained in Schedule 17 or the definition of “the relevant examinations” in paragraph (1).

PART X

MISCELLANEOUS AND GENERAL

Transfer of certain institutions to Department

1854 c. 112

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

1973 NI 12

128. Land provided or maintained for any of the purposes of this Order may be used for any of the other purposes of this Order or for any of the purposes of the Recreation and Youth Service (Northern Ireland) Order 1973.

Publication of notices

129.—(1) Notices and other matters required to be published under this Order 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

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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 this Order he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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 this Order may be served or sent by giving it to the chief officer of the board or sending it to or delivering it at the headquarters of the board.

1954 c. 33 (N.I.)

(2) Any notice, order or other document requiring authentication by a board may be authenticated by the chief officer of the board or another officer of the board authorised in that behalf by the board.

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 chief officer 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 managers of a grant-aided school and to be signed by the chairman of the managers or by their clerk;
- (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.

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.

(2) The statutory provisions specified in Schedule 18 shall have effect subject to the amendments specified in that Schedule.

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Transitional and saving provisions

133.—(1) The transitional provisions set out in Schedule 19 shall have effect.

(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 suffering from arrested or incomplete development of mind or is the subject of an order under the Lunacy Regulation (Ireland) Act 1871 or is for the time being the subject of a decision recorded under paragraph 2 of Schedule 12 to this Order or is making use of any services provided under the Mental Health Act (Northern Ireland) 1961 for persons suffering from mental disorders or to a person who is detained in pursuance of an order made by any court.

1871 c. 22

1961 c. 15 (N.I.)

Regulations

134.—(1) The Department may make all such regulations as it is required or empowered to make under this Order or as appear to it to be necessary or proper for giving full effect to this Order.

(2) All regulations under this Order shall be subject to negative resolution.

Repeals

135. The statutory provisions set out in Schedule 20 are hereby repealed to the extent specified in the third column of that Schedule.

G. I. de Deney,
Clerk of the Privy Council.

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SCHEDULES

SCHEDULE 1

Article 3(2).

NAMES AND AREAS OF EDUCATION AND LIBRARY BOARDS

1 Name of Board	2 Name of Local Government District
The Belfast Education and Library Board.	Belfast.
The South-Eastern Education and Library Board.	Ards. Castlereagh. Down. Lisburn. North Down.
The Southern Education and Library Board.	Armagh. Banbridge. Cookstown. Craigavon. Dungannon. Newry and Mourne.
The Western Education and Library Board.	Fermanagh. Limavady. Derry. Omagh. Strabane.
The North-Eastern Education and Library Board.	Antrim. Ballymena. Ballymoney. Carrickfergus. Coleraine. Larne. Magherafelt. Moyle. Newtownabbey.

SCHEDULE 2

Article 3(4), (5).

EDUCATION AND LIBRARY BOARDS

PART I

CONSTITUTION OF BOARDS

Appointment of members

1.—(1) The maximum number of members to be appointed to a board shall from time to time be determined by the Department.

(2) The Head of the Department shall appoint to a board—

(a) persons nominated in accordance with paragraph 2 by each district council in the area of the board from amongst members of that council;

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- (b) persons appearing to the Head of the Department—
 - (i) to represent the interests of transferors of schools in the area of the board;
 - (ii) to represent the interests of trustees of maintained schools in the area of the board;
 - (iii) to be suitable for appointment by reason of their interest in the services for which the board is responsible.

(3) Appointments under sub-paragraph (2)(b)(i) and (ii) shall be made after consultation (to such extent as may seem to the Head of the Department practicable and expedient) with interests appearing to the Head of the Department—

- (a) in the case of appointments under sub-paragraph (2)(b)(i), to represent the transferors of schools in the area of the board; and
- (b) in the case of appointments under sub-paragraph (2)(b)(ii), to represent the trustees of maintained schools in the area of the board.

(4) The members of a board shall be appointed in the year 1973 and in every fourth year thereafter and—

- (a) persons appointed to a board shall become members of the board from such date (being a date as soon as possible after members of district councils are nominated to the board under sub-paragraph (2)(a)) as shall be specified in their appointment;
- (b) the appointment shall cease to have effect after the day preceding that from which the next subsequent appointments made under this sub-paragraph are effective.

(5) A member of a board on the expiry of his term of office shall, unless he is disqualified under paragraph 6(1), be eligible for re-appointment to the board.

(6) A vacancy occurring in the membership of a board shall be filled by a person appointed by the Head of the Department being a person of that category specified in sub-paragraph (2)(a) or (2)(b)(i) or (2)(b)(ii) or (2)(b)(iii) to which the member being replaced belonged and that person shall hold office for the residue of the term of office of that member.

Members nominated by district councils

2.—(1) The Department shall from time to time determine the total number of members to be nominated to a board by district councils in the area of the board and the number to be nominated by each such district council and, in determining that total number, the Department shall ensure that—

- (a) the total number is as nearly as possible equal to two-fifths of the maximum number of members of the board; and
- (b) each district council in the area of the board may nominate at least one member;

and, in determining the number of members to be nominated by a district council, the Department shall have regard to the population in the area of that district council.

(2) As soon as possible after the date on which a district council is elected in accordance with section 11(2) of the Electoral Law Act (Northern Ireland) 1962 and in any event within one month of that date, the council shall select the members of the council to be nominated by it to a board and shall send to

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the Head of the Department the names and addresses of the persons so nominated.

(3) If a district council fails to nominate members to a board in accordance with sub-paragraph (2) or fails to nominate the requisite number of such members, the Head of the Department may, on behalf of that council, make such nominations or such additional nominations of persons who are members of that council as may be necessary by reason of such failure and such nominations shall be deemed for all purposes to be nominations by the council.

Other members

3. The Department shall from time to time determine the total number of persons to be appointed to a board as representing the interests of transferors of schools and trustees of maintained schools in the area of the board and the number of such persons to be appointed—

- (a) to represent the interests of transferors of schools shall as nearly as possible bear the same proportion to one-quarter of the maximum number of members of the board as the number of pupils enrolled in controlled primary schools in the area of the board bears to the total number of pupils enrolled in all primary schools in that area;
- (b) to represent the trustees of maintained schools shall as nearly as possible bear the same proportion to three-sixteenths of the maximum number of members of the board as the number of pupils enrolled in maintained primary schools in the area of the board bears to the total number of pupils enrolled in all primary schools in that area.

4.—(1) The maximum number of persons appointed to a board under paragraph 1(2)(b)(iii) shall be as nearly as possible seven-twentieths of the maximum number of members of that board.

(2) Three of the persons so appointed shall be appointed by reason of their being teachers serving at the time of their appointment in grant-aided schools or grant-aided institutions of further education in the area of the board and at least three persons so appointed shall be persons appearing to the Head of the Department to have an interest in the public library service.

Resignation and disqualification of members

5. A member of a board may resign therefrom by giving notice in writing to the Head of the Department and, in the case of a person nominated by a district council, to that council but such a notice given by a member nominated by a district council shall not take effect until after the then next following meeting of the district council by which he was nominated.

6.—(1) A person shall be disqualified for being a member of a board or of a committee or sub-committee thereof if—

- (a) he is employed by that board or any other board as a paid officer; or
- (b) he has been adjudged bankrupt or has made a composition with his creditors; or
- (c) he has within the five years immediately preceding the day of his appointment or at any time thereafter—
 - (i) been convicted by a court in Northern Ireland or elsewhere in the British Islands of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine;

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or

- (ii) been guilty of any conduct which the High Court, by order under section 31(3) of the Local Government Act (Northern Ireland) 1972 or by order under that section as applied by paragraph 8, has declared to be reprehensible;

but section 5 of the Local Government Act (Northern Ireland) 1972 shall apply to a disqualification under head (b) of this sub-paragraph and such a disqualification shall cease in accordance with the provisions of that section.

(2) A member of a district council who is appointed under paragraph 1(2)(a) to a board on the nomination of that district council shall cease to be a member of the board if he ceases to be a member of that district council and a person appointed to a board under paragraph 1(2)(b)(iii) by reason of his being a teacher serving in a grant-aided school or grant-aided institution of further education in the area of that board shall cease to be a member of that board if he ceases to be such a teacher.

(3) Where a member of a board becomes disqualified under sub-paragraph (1) or is absent from meetings of the board for more than six months consecutively, or a person ceases to be a member of a board under sub-paragraph (2), the board shall forthwith notify the fact to the Head of the Department and, if that member was nominated by a district council, to that council and thereupon the office shall become vacant.

(4) Attendance as a member of a board at any meeting of a committee of the board (other than a committee to which Article 10 or 28 applies) shall for the purposes of sub-paragraph (3) be regarded as an attendance at a meeting of the board.

(5) The Head of the Department when notified under sub-paragraph (3) that an office has become vacant because of the absence of a member of a board from meetings of the board, having considered the reason for his absence, may, if he thinks it desirable in the circumstances, re-appoint that person as a member of that board.

(6) Section 6(1) to (3) of the Local Government Act (Northern Ireland) 1972 (penalties for acting while disqualified) shall apply to a board and a committee or sub-committee thereof and to a member of a board or of a committee or sub-committee thereof in like manner as it applies to a district council and to a member of a district council respectively.

Disclosure of pecuniary interest and relevant family relationships

7. Sections 28 and 29 (disclosure of pecuniary interests and disability from voting on account thereof), section 30 (disclosure of relevant family relationships), section 33 (time limit for proceedings) and section 146 (interpretation; pecuniary interests) of the Local Government Act (Northern Ireland) 1972 shall apply to a board and to a committee thereof to which Article 4(5) applies and to a member of a board and of such a committee in like manner as they apply to a district council and to a member of a district council respectively but with the substitution for references to the clerk of the council of references to the chief officer of the board and for references to that Act of references to this Order and with the substitution for the words "by any local elector for the district of the council" in section 28(4) of the words "by any other person".

Recovery of wrongful gains and remedies against member guilty of reprehensible conduct

8. Sections 31 to 33 of the Local Government Act (Northern Ireland) 1972

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(recovery of wrongful gains and remedies in respect of reprehensible conduct) shall apply to a board and to a committee thereof to which Article 4(5) applies and to a member of a board and of such a committee in like manner as they apply to a district council and to a member of a district council respectively and for the reference to that Act in section 31 as so applied there shall be substituted a reference to this Order.

PART II

PROCEEDINGS OF BOARDS

9.—(1) A board shall, at its first meeting after its appointment, elect one of its members to be chairman and one of its members to be vice-chairman who, unless the board otherwise determines, shall hold office until the next subsequent appointment of members of the board under paragraph 1(4) becomes effective.

(2) Where, at any meeting of the board, the chairman is absent, the vice-chairman, if present, shall be chairman at that meeting and where, at any such meeting, both the chairman and vice-chairman are absent, the chairman at that meeting shall be such member of the board present as the members attending the meeting shall appoint.

(3) The chairman at any meeting of the board shall, in addition to his right to vote as a member of the board, have a casting vote.

10.—(1) The quorum of the board shall be one-third of the total number of members of the board.

(2) The proceedings of a board shall not be invalidated by any vacancy among its members or by any defect in the appointment or qualification of any of its members.

11. The seal of the board shall be authenticated by the signatures of the chairman or other member of the board authorised by it to act in that behalf and of the chief officer or some other officer of the board authorised as aforesaid.

12.—(1) The Department may make regulations regulating the procedure to be followed by a board or any committee thereof in carrying out its functions.

(2) A board shall draw up standing orders for the conduct of the business of the board or any committee thereof and such standing orders shall be subject to the approval of the Department.

13.—(1) A board may enter into contracts necessary for the discharge of any of its functions.

(2) A board may enter into an agreement with a public body for the supply by the board to the public body of any goods or materials and a board may purchase and store any goods or materials which in its opinion it may require for the purposes of this sub-paragraph.

(3) In sub-paragraph (2) "public body" means a body established by or under a transferred provision.

(4) All contracts made by a board or a committee of the board shall be made in accordance with the standing orders of the board and in the case of contracts for the supply of goods or materials or for the execution of works the standing orders, except as otherwise provided by or under the standing orders, shall—

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- (a) require notice of the intention of the board or committee to enter into the contract in question to be published and tenders invited; and
- (b) regulate the manner in which such notice shall be published and tenders invited.

1954 c. 33 (N.I.) (5) Without prejudice to section 19(1)(a)(ii) of the Interpretation Act (Northern Ireland) 1954, a person entering into a contract with a board shall not be bound to inquire whether the standing orders of the board which apply to the contract have been complied with and all contracts entered into by a board, if otherwise valid, shall, notwithstanding that the standing orders applicable thereto have not been complied with, have full force and effect.

Article 4(2).

SCHEDULE 3

**CONSTITUTION OF TEACHING APPOINTMENTS COMMITTEES AND
LIBRARY COMMITTEES**

PART I

TEACHING APPOINTMENTS COMMITTEES

1. A teaching appointments committee shall consist of the following persons appointed by the board of which it is a committee—

- (a) two principals of controlled schools under the management of the board appointed in accordance with paragraph 2;
- (b) two persons who have been appointed to the board under paragraph 1(2)(b)(i) of Schedule 2 and nominated to the committee by a majority of the persons who have been so appointed;
- (c) two persons nominated by the Head of the Department from amongst the persons appointed to the board by him under paragraph 1(2)(b)(iii) of Schedule 2;
- (d) two district councillors nominated by the board from amongst those members appointed to the board under paragraph 1(2)(a) of Schedule 2;

and the quorum of a teaching appointments committee shall be four persons.

2.—(1) The principals of controlled schools shall for the purposes of paragraph 1(a) be appointed as follows:—

- (a) a board shall prepare a panel of principals serving in controlled schools under its management;
- (b) two principals from that panel shall be appointed by the board to attend each meeting of the teaching appointments committee and different principals may be appointed to attend different meetings of the committee.

(2) If so authorised by a board, the chief education officer of the board or, in his absence, another officer of the board authorised by him for the purpose may, on behalf of the board, appoint the principals to the teaching appointments committee.

(3) The principals appointed to attend any meeting of a teaching appointments committee shall have the like right to speak and vote at that meeting as the other members of the committee.

3.—(1) Substitutes for members of a teaching appointments committee may be nominated and appointed under sub-paragraphs (b), (c) and (d) of paragraph 1 in like manner as the members are nominated and appointed.

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(2) Where the chief education officer of the board which appointed the committee or, in his absence, another officer of the board duly authorised by him is informed that a member of the committee nominated and appointed under paragraph 1(b), (c) or (d) will be absent from a meeting of the committee or where such a member is disqualified by interest or otherwise from taking part in proceedings at such a meeting, he shall authorise the attendance at that meeting of a substitute, being the substitute or one of the substitutes nominated and appointed in like manner as the member, and if that substitute attends, he shall have at that meeting all the functions of the member except that, if he attends a meeting as substitute for the member who is chairman of the committee, he shall not, unless the committee otherwise decides, be chairman at that meeting.

(3) The chief education officer of the board or a person nominated by him shall attend as assessor at each meeting of the teaching appointments committee of that board.

4.—(1) Where a meeting of the teaching appointments committee is to be held to exercise any of the functions conferred on the committee by Part I of Schedule 14 in relation to a post in a school, the committee shall invite representatives of the school to attend the meeting for the purpose of advising the committee generally on matters relating to the school and the nature of the post.

(2) Representatives of the school invited to attend a meeting of the committee under this paragraph shall be entitled to be present at the meeting only for the purpose mentioned in sub-paragraph (1) and shall not be present during the interview of any candidate for the post nor during any discussion or decision relating to the appointment of any particular candidate to the post.

(3) In this paragraph—

(a) references to a post shall be construed in accordance with paragraph 1 of Schedule 14;

(b) “representatives of the school” means—

(i) where the meeting is held in relation to the post of principal of the school, two members of the Board of Governors of the school, other than the principal;

(ii) where the meeting is held in relation to any other post in the school, one member of the Board of Governors of the school and the principal of the school or, where the principal is absent or otherwise unavailable, a teacher on the staff of the school.

PART II

LIBRARY COMMITTEES

5. The library committee of a board shall consist of such members of the board as that board appoints thereto but shall include all members appointed to the board by reason of their interest in the public library service.

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Article 10(3)

SCHEDULE 4

MEMBERSHIP OF BOARD OF GOVERNORS OF
CONTROLLED SCHOOLS

1.—(1) The Board of Governors of one or more than one controlled school shall consist of—

- (a) such number of persons (in this Schedule referred to as “voting members”) as the board may, subject to paragraphs 2 to 5, determine; and
- (b) the principal of the school, or each of the schools, who, subject to sub-paragraph (2), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.

Controlled primary schools (other than nursery or integrated schools)

2.—(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of one or more than one controlled primary school, other than a controlled nursery school or controlled integrated primary school.

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

- (a) four shall be nominated by the transferors and superseded managers of the school or schools;
- (b) two shall be elected by parents of pupils attending the school or schools from amongst the parents of such pupils;
- (c) two shall be chosen by the board responsible for the management of the school or schools;
- (d) one shall be elected by assistant teachers at the school or schools from amongst such assistant teachers.

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

Controlled intermediate schools (other than technical or integrated schools)

3.—(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of a controlled intermediate school, other than a technical intermediate school or a controlled integrated intermediate school.

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

- (a) four shall be nominated by the Boards of Governors of contributory schools from amongst members of those Boards of Governors who have been nominated by the transferors and superseded managers of the contributory schools;
- (b) two shall be elected by parents of pupils attending the school from amongst parents of such pupils;
- (c) two shall be chosen by the board responsible for the management of the school;

(d) one shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

Controlled nursery, grammar and special schools

4. There shall be 8, 16 or 24 voting members appointed to the Board of Governors of a controlled nursery school, a controlled grammar school or a controlled special school and, subject to paragraph 6, of those members—

- (a) three-eighths shall be chosen by the board responsible for the management of the school;
- (b) one-quarter shall be nominated by the Head of the Department;
- (c) one-quarter shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
- (d) one-eighth shall be elected by assistant teachers at the school from amongst such assistant teachers.

Controlled integrated schools

5. There shall be 14 or 21 voting members appointed to the Board of Governors of one or more than one controlled integrated school and, subject to paragraph 6, of those members—

- (a) two-sevenths shall be elected by parents of pupils attending the school or schools from amongst the parents of such pupils;
- (b) two-sevenths shall be chosen by the board responsible for the management of the school or schools;
- (c) one-seventh shall be nominated by the transferors and superseded managers of controlled schools in the area of the board responsible for the management of the school or schools;
- (d) one-seventh shall be nominated by the nominating trustees of maintained schools in the area of the board responsible for the management of the school or schools;
- (e) one-seventh shall be elected by assistant teachers at the school or schools from amongst such assistant teachers.

Provisions supplementary to paragraphs 2 to 5

6.—(1) Where the board proposes to appoint persons to a Board of Governors under paragraph 2(2)(a) it shall serve on the transferors and superseded managers who are to nominate persons for that purpose a notice—

- (a) stating the board's intention to appoint such persons; and
- (b) requesting the transferors and superseded managers to make nominations to the board within a period of 21 days from the date on which the notice is served;

and where the transferors and superseded managers fail to make any nomination requested by such a notice within that period the board may appoint such persons as it considers to be suitable for appointment, being persons who, so far as possible, are resident in the locality served by the school or schools under the management of the Board of Governors and the persons so

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appointed shall be deemed to have been duly nominated for the purposes of paragraphs 2(2)(a) and 3(2)(a).

(2) Where the board proposes to appoint persons to a Board of Governors under paragraph 3(2)(a) it shall serve on the Boards of Governors of contributory schools who are to nominate persons for that purpose a notice—

- (a) stating the board's intention to appoint such persons; and
- (b) requesting the Boards of Governors to make nominations to the board within a period of 21 days from the date on which the notice is served;

and where such Boards of Governors fail to make any nomination requested by such a notice within that period the board may appoint such persons as it considers to be representative of the transferors and superseded managers of the contributory schools and the persons so appointed shall be deemed to have been duly nominated for the purposes of paragraph 3(2)(a).

(3) Where the board proposes to appoint persons to a Board of Governors under paragraph 5(c) or (d) it shall serve on the transferors and superseded managers or the nominating trustees (as the case may be) who are to nominate persons for that purpose a notice—

- (a) stating the board's intention to appoint such persons; and
- (b) requesting the transferors, superseded managers or nominating trustees to make nominations to the board.

(4) The board shall, with the approval of the Department, make arrangements for the election of persons under paragraphs 2(2)(b) and (d), 3(2)(b) and (d), 4(c) and (d) and 5(a) and (e) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(5) Where it is not practicable to appoint to a Board of Governors under paragraph 2(2)(a) persons nominated by the transferors or superseded managers because a school is not a transferred school or does not supersede any other school or schools, the board shall appoint in their place an equivalent number of persons appearing to the board to be representative of transferors and superseded managers in the area of the board as a whole and those persons shall, so far as possible, be persons resident in the locality served by the school or schools under the management of the Board of Governors and shall be deemed to have been duly nominated for the purposes of paragraphs 2(2)(a) and 3(2)(a).

Interpretation

7. In this Schedule—

“assistant teacher” means a teacher, other than the principal or a temporary or part-time teacher, employed on the staff of a school;

“superseded managers” means the persons who were formerly trustees or managers of any schools which have been superseded by schools under the management of boards or, if those persons were recognised by the Department as such trustees or managers by virtue of any office, then, their successors in such office;

“nominating trustees” has the meaning assigned to it by paragraph 2(3) of Schedule 5.

SCHEDULE 5

MAINTAINED SCHOOLS

PART I

CONSTITUTION OF BOARD OF GOVERNORS FOR
MAINTAINED SCHOOL

1.—(1) Subject to sub-paragraphs (4) and (5), a board shall, if requested by the managers or trustees of a voluntary school other than a voluntary grammar school, make provision in accordance with this Part for the constitution of a Board of Governors for that school.

(2) A board may, with the approval of the Department, make provision for the constitution of one Board of Governors for two or more voluntary primary schools, other than nursery schools, where the managers or trustees of the schools so request.

(3) Nothing in any instrument of government of a school shall—

(a) prevent the constitution of a Board of Governors for that school in accordance with a scheme complying with paragraph 2 or the doing by the managers or trustees of that school of anything necessary for or incidental to the constitution and functioning of such a Board of Governors; or

(b) restrict the powers under sub-paragraph (2) of the managers or trustees of that school or the application of that sub-paragraph to that school.

(4) Without prejudice to the right of the managers or trustees to make a further request under sub-paragraph (1), a board may, with the approval of the Department, refuse to make provision for the constitution of a Board of Governors for a school but the Department shall not give such approval unless the board satisfies it that the condition of the premises of the school is such that it would be unreasonable to expect the board to assume responsibility for the maintenance of those premises.

(5) The managers or trustees of a school or schools may, at any time before they have signified their agreement to a scheme complying with paragraph 2 for the school or schools, withdraw their request under this paragraph.

2.—(1) A scheme under Article 11(2) for one or more than one maintained school shall be framed by the board, after consultation with the managers or trustees of the school or schools, and shall, so far as it relates to the constitution of a Board of Governors, comply with the following provisions of this paragraph.

(2) The Board of Governors of one or more than one maintained school shall consist of—

(a) 10, 18 or 27 persons (in this paragraph referred to as voting members); and

(b) the principal of the school, or each of the schools, who, subject to sub-paragraph (5), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(3) Where there are 10 voting members of the Board of Governors of one or more than one maintained school, then of those members—

(a) six shall be nominated—

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- (i) when appointments are first made to the Board of Governors, by the managers or trustees of the school or schools,
 - (ii) on any subsequent appointment to the Board of Governors, by such persons (to be known as "nominating trustees") and in such manner as the scheme may provide,
at least one of whom shall, at the time of his appointment, be a parent of a pupil attending the school or one of the schools;
 - (b) two shall be nominated by the board;
 - (c) one shall be elected by parents of pupils attending the school or schools from amongst the parents of such pupils;
 - (d) one shall be elected by assistant teachers at the school or schools from amongst such assistant teachers.
- (4) Where there are 18 or 27 voting members of the Board of Governors of one or more than one maintained school, sub-paragraph (3) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions five-ninths, two-ninths, one-ninth and one-ninth respectively.
- (5) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.
- (6) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (3)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

PART II

**WITHDRAWAL OF MAINTAINED SCHOOL FROM MAINTAINED
SCHOOL STATUS**

- 3.—(1) The nominating trustees of a maintained school may at any time give notice to the board requesting that the school should cease to be a maintained school but should continue to be a voluntary school and, where they do so, the school shall, subject to paragraph 4, continue to be a voluntary school but shall cease to be a maintained school—
- (a) on the date specified in the notice but only if on or before that date the nominating trustees have complied with paragraph 4; or
 - (b) if those trustees have not complied with paragraph 4 on or before that date, on the date on which they so comply.
- (2) The date specified in a notice under sub-paragraph (1) shall not, unless the nominating trustees and the board otherwise agree, be less than two years from the date on which the notice is given.
- (3) Subject to paragraphs 2(1) and 4(5) of Schedule 10, sub-paragraph (1) shall apply only to a school—
- (a) which was recognised as a grant-aided school before 19th October 1967; or
 - (b) which the Department is satisfied replaces a school or schools (not being a school which was, or schools one or more than one of which was, a maintained school) so recognised before that date; or

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- (c) the proposal to establish which was submitted to the Department before that date for approval.
4. Where a school will cease to be a maintained school under the provisions of paragraph 3(1), the nominating trustees of that school shall—
- (a) repay to the Department an amount equal to the difference between the sums actually paid under Article 116(1)(a) in respect of expenditure on that school and the sums which would have been paid under that Article if the school had not been a maintained school when the expenditure was incurred; and
 - (b) pay to the board such amount as may be agreed between those trustees and the board or, in default of agreement, as may be determined by the Department as representing thirty-five per cent. of the value, at the date on which the school ceases to be a maintained school, of—
 - (i) any works of external maintenance of the school carried out by the board or, before 1st October 1973, by a former local education authority; and
 - (ii) any equipment provided by the board or, before 1st October 1973, by a former local education authority.

PART III

INTERPRETATION

5. In this Schedule—
- “assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 4;
 - “board” in relation to a school or schools means the board for the area in which the school is or the schools are situated or such other board as the Department may determine;
 - “nominating trustees” has the meaning assigned to it by paragraph 2(3).

SCHEDULE 6

Article 11(4), (5).

MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY GRAMMAR
SCHOOL ENTERING INTO AGREEMENT WITH DEPARTMENT
OR BOARD AND OF DIRECT GRANT VOLUNTARY
INTERMEDIATE SCHOOL

- 1.—(1) The trustees or Board of Governors of—
- (a) a voluntary grammar school; or
 - (b) a school to which, by virtue of Article 20, Schedule 10 applies,
- shall, notwithstanding anything in any instrument of government of the school, have power to enter into an agreement with the Department conferring on the Head of the Department the right to appoint members to the Board of Governors of the school in accordance with paragraph 3(2)(b).
- (2) The trustees or Board of Governors of—
- (a) a voluntary grammar school; or
 - (b) a direct grant voluntary intermediate school,
- shall, notwithstanding anything in any instrument of government of the school, have power to enter into an agreement, approved by the Department,

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with one or more than one board conferring on the board or boards the right to appoint members to the Board of Governors of the school in accordance with paragraph 3(2)(b).

(3) An agreement under sub-paragraph (1) shall provide that the Head of the Department, before making an appointment to the Board of Governors of the school, shall consult the Board of Governors of the school and the board for the area in which the school is situated and may consult any other board which he considers appropriate.

(4) Any agreement made or having effect as if made under this paragraph by the trustees or Board of Governors of a voluntary grammar school shall continue to have effect in relation to the school if it becomes a school to which Schedule 10 applies and if it then becomes a direct grant voluntary intermediate school.

2. Notwithstanding anything in any instrument of government of—

- (a) a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement under paragraph 1(1) or 1(2); or
- (b) a direct grant voluntary intermediate school,

the Board of Governors of the school shall be constituted in accordance with paragraph 3.

3.—(1) The Board of Governors of the school shall consist of—

- (a) 10, 18, 27 or 36 persons (in this paragraph referred to as voting members); and
- (b) the principal of the school who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Where there are 10 voting members of the Board of Governors of the school, then of those members—

- (a) six shall be appointed as provided by the scheme approved under Article 11(2), at least one of whom shall, at the time of his appointment, be a parent of a pupil attending the school;
- (b) two shall be appointed—
 - (i) where the trustees or Board of Governors have entered into an agreement under paragraph 1(1), by the Head of the Department;
 - (ii) where the trustees or Board of Governors have entered into an agreement under paragraph 1(2), by the board or boards;
 - (iii) where the trustees or Board of Governors have entered into agreements both under paragraphs 1(1) and 1(2), by the Head of the Department and the board or boards in accordance with the terms of such agreements but subject to sub-paragraph (6);
- (c) one shall be elected by parents of pupils attending the school from amongst parents of such pupils;
- (d) one shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Where there are 18, 27 or 36 members of the Board of Governors of the school, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions five-ninths, two-ninths, one-ninth and one-ninth respectively.

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(4) Subject to sub-paragraph (5), persons elected to the Board of Governors under sub-paragraph (2)(c) and (d) shall hold office for a period of four years from the date on which they were elected.

(5) If a person referred to in sub-paragraph (4) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(6) Where the trustees or Board of Governors of the school—

(a) enter into an agreement under paragraph 1(1) at a time when members have been appointed by one or more than one board to the Board of Governors of the school under a prior agreement entered into under paragraph 1(2); or

(b) enter into an agreement under paragraph 1(2) at a time when members have been appointed by the Head of the Department to the Board of Governors of the school under a prior agreement entered into under paragraph 1(1),

then, until the expiration of the period for which those members have been appointed under the prior agreement and notwithstanding sub-paragraphs (1)(a) and (2)(b)(iii), such number of members may be appointed for that period to the Board of Governors of the school by the Head of the Department or, as the case may be, the board or boards as is provided for in the subsequent agreement.

(7) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(8) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school, the persons elected to the Board of Governors of the school under sub-paragraph (2)(c) and (d) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

4. In this Schedule “assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 4.

SCHEDULE 7

Article 11(6).

**MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY GRAMMAR SCHOOL
NOT ENTERING INTO AGREEMENT WITH DEPARTMENT OR BOARD**

1. Notwithstanding anything in any instrument of government of a voluntary grammar school the trustees or Board of Governors of which have not entered into an agreement under paragraph 1 of Schedule 6, the Board of Governors of the school shall be constituted in accordance with paragraph 2.

2.—(1) The Board of Governors of the school shall consist of—

(a) the persons appointed as provided by the scheme approved under Article 11(2), at least one of whom shall, at the time of his appointment, be a parent of a pupil attending the school;

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- (b) either one or two persons elected in accordance with sub-paragraphs (2) and (5) by parents of pupils attending the school from amongst the parents of such pupils;
- (c) either one or two persons elected in accordance with sub-paragraphs (2) and (5) by assistant teachers at the school from amongst such assistant teachers;
- (d) the principal of the school, who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Where the number of persons who are members of the Board of Governors by virtue of sub-paragraph (1)(a) is 13 or less, one person shall be elected to the Board of Governors under sub-paragraph (1)(b) and one person under sub-paragraph (1)(c); and where the number of such persons is 14 or more, two persons shall be elected to the Board of Governors under sub-paragraph (1)(b) and two persons under sub-paragraph (1)(c).

(3) Subject to sub-paragraph (4), persons elected to the Board of Governors under sub-paragraph (1)(b) and (c) shall hold office for a period of four years from the date on which they were elected.

(4) If a person referred to in sub-paragraph (3) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (1)(b) and (c) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(6) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school, the persons elected to the Board of Governors of the school under sub-paragraph (1)(b) and (c) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

3. In this Schedule "assistant teacher" has the meaning assigned to it by paragraph 7 of Schedule 4.

Article 11(7).

SCHEDULE 8

**MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY SCHOOL
WHICH HAS CEASED TO BE MAINTAINED SCHOOL**

1. Notwithstanding anything in any other instrument of government of a voluntary school to which Article 11(7) applies, the scheme under Article 11(2) for the school shall, so far as it relates to the constitution of the Board of Governors of the school, comply with the provisions of paragraph 2.

2.—(1) The Board of Governors of the school shall consist of—

- (a) 9, 18 or 27 persons (in this paragraph referred to as voting members); and
- (b) the principal of the school who shall be entitled to attend and take

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part in meetings of the Board of Governors but not to vote on any question.

- (2) Of the voting members of the Board of Governors of the school—
- (a) seven-ninths shall be nominated by the nominating trustees and at least one of the persons so nominated shall, at the time of his nomination, be a parent of a pupil attending the school;
 - (b) one-ninth shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
 - (c) one-ninth shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Subject to sub-paragraph (4), persons elected to the Board of Governors under sub-paragraph (2)(b) and (c) shall hold office for a period of four years from the date on which they were elected.

(4) If a person referred to in sub-paragraph (3) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(b) and (c) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

3. In this Schedule—

“assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 4;

“nominating trustees” means—

- (a) when appointments are first made to the Board of Governors, the persons who were the nominating trustees provided for in the scheme for the school when it was a maintained school;
- (b) on any subsequent appointment to the Board of Governors, such persons as the scheme for the school complying with the provisions of paragraph 2 may provide.

SCHEDULE 9

Article 17(1), 127.

TRANSFER OF VOLUNTARY SCHOOLS TO DEPARTMENT

1. An arrangement for transferring a school to the Department under Article 17 may, subject to the following provisions of this Schedule, be made by the trustees who, in making such an arrangement, may act by resolution or otherwise as follows—

- (a) where the trust deed provides any manner in which or any assent with which a resolution or act binding the trustees is to be passed or done, then in accordance with the provisions of the trust deed;
- (b) where the trust deed contains no such provision—
 - (i) then in the manner and with the assent, if any, in and with which it may be shown to the Department to have been usual for a resolution or act binding the trustees to be passed or done; or
 - (ii) if no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two-thirds of those members of their body who are present at a meeting of the

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body summoned for the purpose and vote on the question and with the assent of any other person whose assent under the circumstances appears to the Department to be requisite.

2. An arrangement under this Schedule may provide for an absolute conveyance to the Department of all the estate in the premises of the school possessed by the trustees of the school or for a lease of the same with or without restrictions and either at a nominal rent or otherwise to the Department or for any arrangement that may be agreed upon between the trustees and the Department.

3. An arrangement under this Schedule may also provide for the transfer to the Department of a teacher's residence held or used in connection with the school or for the transfer or application, subject to the approval of the Department of Finance and Personnel, of any endowment belonging to the school or for the Department undertaking to discharge any debt charged on the school not exceeding the value of the estate in the premises or endowments transferred to it.

4. Where an arrangement is made under this Schedule, it shall be one of the terms of the arrangement that the trustees of the school or endowment shall, in pursuance of the arrangement, execute a proper conveyance and take all necessary steps in law for the effective conveyance to the Department of all such estate in the premises or endowment as is vested in those trustees or such smaller estate as may be agreed upon in the arrangement.

5. Where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of the trustees, nothing in this Schedule shall authorise any interference with that right except with the consent of that person.

6. The Department shall consider and have due regard to any objections and representations respecting a proposed transfer of a school under this Schedule which may be made by any person or by the representatives or successors of any person who has contributed to the establishment of the school.

7. Where the trust instrument contains any provision for the alienation of the school by any persons or in any manner or subject to any consent, any arrangement under this Schedule shall be made by the persons in the manner and with the consent so provided.

8. Where a transfer of a school is made in pursuance of an arrangement under this Schedule, the consent of the Department shall, after the expiration of six months from the date of the transfer, be conclusive evidence that the arrangement has been made in conformity with this Order.

9. Where an arrangement under this Schedule provides for the transfer of a teacher's residence to the Department, this Schedule shall apply for the purposes of such transfer in like manner as it applies for the purposes of the transfer of a school.

SCHEDULE 10

Article 20.

VOLUNTARY GRAMMAR SCHOOL BECOMING VOLUNTARY
INTERMEDIATE SCHOOL

1. The trustees or Board of Governors of a school to which this Schedule applies shall, within the period of two months after the date on which the proposal that the school should become a voluntary intermediate school is approved by the Department, give notice to the Department and the board for the area in which the school is situated indicating whether they wish the school to become—

- (a) a maintained intermediate school; or
- (b) a direct grant voluntary intermediate school.

2.—(1) Where the trustees or Board of Governors of a school to which this Schedule applies give notice to the Department in accordance with paragraph 1(a) that they wish the school to become a maintained school—

- (a) they shall make a request to the board under paragraph 1(1) of Schedule 5 before such date as the Department may direct;
- (b) paragraph 1(5) of Schedule 5 shall not apply to the request so made;
- (c) where, in pursuance of the request so made, the board makes provision in accordance with Part I of Schedule 5 for the constitution of a Board of Governors for the school as a maintained school, Part II of Schedule 5 shall not apply to the school;
- (d) where the board refuses under paragraph 1(4) of Schedule 5 to make provision for the constitution of a Board of Governors for the school as a maintained school, paragraph 3 shall apply to the school as if the trustees or Board of Governors had given notice to the Department in accordance with paragraph 1(b) that they wish the school to become a direct grant voluntary intermediate school.

(2) In this paragraph “board” has the same meaning as in Schedule 5.

3.—(1) Where the trustees or Board of Governors of a school to which this Schedule applies give notice to the Department in accordance with paragraph 1(b) that they wish the school to become a direct grant voluntary intermediate school—

- (a) they shall, unless there is in existence an agreement between them and the Department under Schedule 6, enter into such an agreement with the Department before such date as the Department may direct;
- (b) the school shall on such date as the Department may approve become a direct grant voluntary intermediate school.

(2) The Department shall not approve a date under sub-paragraph (1)(b) unless there is in existence an agreement between the trustees or Board of Governors of the school and the Department under Schedule 6.

4.—(1) The trustees or Board of Governors of a school to which this Schedule applies which becomes a maintained school by virtue of paragraph 2 may, within the period of two months after the expiry of the period of five years from the date on which the school becomes a voluntary intermediate school, give notice to the Department and the board responsible for the maintenance of the school that they wish the school to become a direct grant voluntary intermediate school.

(2) Where the trustees or Board of Governors of a school give notice to the Department in accordance with sub-paragraph (1)—

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- (a) they shall, before such date as the Department may direct, enter into an agreement with the Department under Schedule 6;
 - (b) the school shall on such date as the Department may approve cease to be a maintained school and become a direct grant voluntary intermediate school.
- (3) The Department shall consult with the board responsible for the maintenance of the school before approving a date under sub-paragraph (2)(b) and shall not approve a date unless there is in existence an agreement between the trustees or Board of Governors of the school and the Department under Schedule 6.
- (4) The trustees or Board of Governors of a direct grant voluntary intermediate school shall, if they request a board to make provision in accordance with Part I of Schedule 5 for the constitution of a Board of Governors for the school as a maintained school, immediately inform the Department of that request.
- (5) Where, at the request of the trustees or Board of Governors of a direct grant voluntary intermediate school, provision is made in accordance with Part I of Schedule 5 for the constitution of a Board of Governors for the school as a maintained school, Part II of that Schedule shall not apply to the school.

Articles 29(3)
and 31(1).

SCHEDULE 11

ASSESSMENTS AND STATEMENTS OF SPECIAL EDUCATIONAL NEEDS

PART I

ASSESSMENTS

- 1.—(1) If a board proposes to make an assessment of the educational needs of a child under Article 29, it shall, before doing so, serve notice on the child's parent informing him—
- (a) that the board proposes to make an assessment;
 - (b) of the procedure to be followed in making it;
 - (c) of the name of the officer of the board from whom further information may be obtained; and
 - (d) of his right to make representations, and submit written evidence, to the board within such period (not less than 29 days beginning with the date on which the notice is served) as may be specified in the notice.
- (2) When the board has served a notice under sub-paragraph (1) and the period specified in the notice in accordance with sub-paragraph (1)(d) has expired, the board shall, if it considers it appropriate after taking into account any representations made and any evidence submitted to it in response to the notice, assess the educational needs of the child concerned.
- (3) A board shall notify the child's parent in writing—
- (a) where the board decides to make an assessment, of that decision and the board's reasons for making it;
 - (b) where, at any time after serving a notice under sub-paragraph (1), the board decides not to make an assessment, of that decision.

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(4) If, after making an assessment of the educational needs of a child under Article 29, a board decides that it is not required to determine the special educational provision that should be made for him, then—

- (a) the board shall notify the child's parent in writing of its decision and of the parent's right of appeal under this sub-paragraph;
- (b) the parent may appeal in writing to the Department against the board's decision; and
- (c) the Department may, on such an appeal, direct the board to reconsider its decision.

2.—(1) The Department shall by regulations make provision as to the advice which a board is to seek in making assessments.

(2) Without prejudice to the generality of sub-paragraph (1), regulations made under that sub-paragraph shall require the board to seek medical, psychological and educational advice and such other advice as may be prescribed.

(3) The Department may by regulations make provision—

- (a) as to the manner in which assessments are to be conducted; and
- (b) in connection with such other matters relating to the making of assessments as the Department considers appropriate.

3.—(1) Where a board proposes to make an assessment it may serve a notice on the parent of the child to be assessed requiring the child's attendance for examination in accordance with the provisions of the notice.

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

(3) A notice under this paragraph shall—

- (a) state the purpose of the examination;
- (b) state the time and place at which the examination will be held;
- (c) name an officer of the board from whom further information may be obtained;
- (d) inform the parent that he may submit such information to the board as he may wish; and
- (e) inform the parent of his right to be present at the examination.

(4) A parent on whom a notice has been served under this paragraph and who, without reasonable excuse, fails to comply with any of the requirements of the notice shall, if the notice relates to a child who was not over compulsory school age at the time stated in the notice as the time for holding the examination, be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

4.—(1) If the parent of a child in the area of a board for whom no statement is maintained by the board under Article 31 asks the board to arrange for an assessment to be made of the child's educational needs, the board shall comply with the request unless in its opinion the request is unreasonable.

(2) If the parent of a child for whom a statement is maintained by a board under Article 31 asks the board to arrange for an assessment of the child's educational needs under Article 29 and such an assessment has not been made within the period of six months ending with the date on which the request is made, the board shall comply with the request unless the board is satisfied that an assessment would be inappropriate.

PART II

STATEMENTS

5.—(1) Before making a statement under Article 31 a board shall serve on the parent of the child concerned—

- (a) a copy of the proposed statement; and
- (b) a written explanation of the effect of sub-paragraphs (2) to (6).

(2) If the parent on whom a copy of a proposed statement has been served under sub-paragraph (1) disagrees with any part of the proposed statement, he may, before the expiry of the appropriate period,—

- (a) make representations, or further representations, to the board about the content of the proposed statement;
- (b) require the board to arrange a meeting between him and an officer of the board at which the proposed statement can be discussed.

(3) Where a parent, having attended a meeting arranged by a board under sub-paragraph (2)(b), disagrees with any part of the assessment in question, he may, before the expiry of the appropriate period, require the board to arrange one or more meetings under sub-paragraph (4).

(4) Where a board receives a request duly made under sub-paragraph (3), it shall arrange such meeting or meetings as it considers will enable the parent to discuss the relevant advice with the appropriate person or persons.

(5) In sub-paragraph (4)—

“relevant advice” means such of the advice given to the board in connection with the assessment as it considers to be relevant to that part of the assessment with which the parent disagrees;

“appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the board, is the appropriate person to discuss it with the parent.

(6) In this paragraph “appropriate period” means the period of 15 days beginning—

- (a) in the case of a request under sub-paragraph (2)(b), with the date on which the proposed statement mentioned in sub-paragraph (1)(a) was served on the parent;
- (b) in the case of a request under sub-paragraph (3), with the date fixed for the meeting arranged under sub-paragraph (2)(b); and
- (c) in the case of representations, or further representations, under sub-paragraph (2)(a)—
 - (i) with the date mentioned in head (a); or
 - (ii) if one or more meetings have been arranged under the preceding provisions of this paragraph, with the date fixed for the last of those meetings.

(7) Where any such representations are made to a board, it may, after considering those representations—

- (a) make a statement in the form originally proposed;
- (b) make a statement in a modified form; or
- (c) determine not to make a statement;

and shall notify the parent in writing of its decision.

(8) On making a statement under Article 31 a board shall serve on the parent of the child concerned—

- (a) a copy of the statement;
- (b) notice in writing of his right under sub-paragraph (9) to appeal to the Department against the special educational provision specified in the statement; and
- (c) notice in writing of the name of the person to whom he may apply for information and advice about the child's special educational needs.

(9) A parent of a child for whom a statement is maintained under Article 31 may, following the first or any subsequent assessment of the child's educational needs under Article 29, appeal to the Department against the special educational provision specified in the statement.

(10) On an appeal under sub-paragraph (9) the Department may, after consulting the board concerned—

- (a) confirm the special educational provision specified in the statement;
- (b) amend the statement so far as it specifies the special educational provision and make such other consequential amendments to the statement as it considers appropriate;
- (c) direct the board to cease to maintain the statement.

6.—(1) A statement under Article 31 shall be in the prescribed form and contain the prescribed information and shall, in particular—

- (a) give details of the board's assessment of the special educational needs of the child; and
- (b) specify the special educational provision to be made for the purpose of meeting those needs.

(2) The Department may by regulations—

- (a) make provision with respect to the keeping, disclosure and transfer of statements;
- (b) prescribe the frequency with which assessments are to be repeated in respect of children for whom statements are maintained under Article 31.

7. Every statement shall, on the making of an assessment of the educational needs of the child concerned under Article 29, be reviewed by a board and shall be reviewed in any event within the period of twelve months beginning with the making of the statement or, as the case may be, with the previous review.

8.—(1) If a board proposes to amend, or to cease to maintain, a statement, the board shall, before doing so, serve on the parent of the child concerned notice in writing of its proposal and of the right of the parent to make representations under this paragraph.

(2) Any parent on whom a notice has been served under this paragraph may, within the period of 15 days beginning with the date on which the notice is served, make representations to the board about the proposal.

(3) A board shall consider any representations made to it under this paragraph and on taking a decision on the proposal to which those representations relate shall inform the parent in writing of its decision.

(4) This paragraph does not apply in any case where a board ceases to maintain a statement for a child who is no longer in its area or where

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amendments which are made to a statement are consequential upon the making, amendment or revocation of a school attendance order under Schedule 13.

Article 35.

SCHEDULE 12

**DUTY OF BOARDS IN RELATION TO CHILDREN WHO ARE
UNSUITABLE FOR EDUCATION IN SCHOOL**

1.—(1) It shall be the duty of a board to determine what children in its area who have attained the age of five years or who have not attained that age and are in attendance at school are suffering from a disability of mind of such a nature or to such an extent as to make them unsuitable for education at school.

(2) For the purpose of fulfilling its duty under sub-paragraph (1), a board may by notice in writing served on the parent of a child require the parent to submit the child for examination by a medical officer and an educational psychologist authorised for the purpose by the board in order to obtain advice as to whether the child is suffering from a disability of mind of such a nature or to such an extent as to make him unsuitable for education at school.

(3) A notice served under sub-paragraph (2) shall state the time and place at which the examination is to be held.

(4) A parent who, without reasonable excuse, fails to comply with a notice served on him under sub-paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A board may cause any child resident in its area who has attained the age of two years to be examined under sub-paragraph (2) and shall do so if so requested by his parent unless the board considers the request to be unreasonable.

(6) The parent of a child shall, if he so wishes, be entitled to be present at any examination held in consequence of the foregoing provisions of this paragraph.

(7) The advice given to the board with respect to a child by a medical officer and an educational psychologist in consequence of an examination under this paragraph shall be given to the parent of the child.

2.—(1) Where a board, after considering the advice given by a medical officer and an educational psychologist in consequence of an examination under paragraph 1 and any report or information which the board is able to obtain from parents, teachers or other persons with respect to the ability and aptitude of the child, decides that the child is suffering from a disability of mind of such a nature or to such an extent as to make him unsuitable for education at school, the board shall, subject to sub-paragraph (2), record the decision and furnish to the health and social services board for the area in which the child resides (in this Schedule referred to as "the appropriate health and social services board") a report of the decision together with a copy of any written advice, report or information which was taken into account for the purposes of the decision.

(2) Before recording a decision under sub-paragraph (1) with respect to a child, the board shall give to the parent of the child not less than twenty-one days notice in writing of its intention to do so and, if within that period the

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parent refers to the Department the question whether such a decision should be recorded, the decision shall not be recorded except by direction of the Department.

(3) A notice under sub-paragraph (2) shall contain a statement of the functions of the appropriate health and social services board with respect to the making of arrangements for the treatment, care or training of the child if the decision is recorded.

(4) Where a decision has been recorded under sub-paragraph (1) in relation to a child—

- (a) the parent of the child may at any time, not earlier than twelve months from the date on which the decision was recorded nor more often than once in any subsequent period of twelve months, by notice in writing request the board to review the decision;
- (b) if at any time it appears to the appropriate health and social services board or to any authority or body responsible for the management of a place where the child is under care that the decision ought to be reviewed, that board, authority or body shall give notice to that effect to the board;

and the board shall then have the child examined, and paragraph 1(2), (3) and (6) shall apply for the purposes of any such examination.

(5) If, after considering the advice given by the medical officer and educational psychologist in consequence of an examination carried out under sub-paragraph (4) and any reports or information available to it, the board decides that the child is suitable for education in a school other than a special school or in a special school, it shall cancel the original decision and notify the cancellation to the health and social services board to whom the report of the original decision was issued, to any other authority or body concerned and to the parents.

(6) If, after considering the advice, reports and information referred to in sub-paragraph (5), the board refuses to cancel the decision, it shall serve on the parent of the child a notice stating that the board has so decided and the parent may, before the expiration of the period of twenty-one days beginning on the day next following the day on which it is served on him, appeal to the Department against the decision of the board.

(7) On an appeal under sub-paragraph (6), the Department may require the board to cancel the original decision or may confirm its refusal to do so.

SCHEDULE 13

Article 45.

**ENFORCEMENT OF DUTY IMPOSED BY ARTICLE 45 AS TO EDUCATION
OF CHILDREN OF COMPULSORY SCHOOL AGE**

PART I

SCHOOL ATTENDANCE ORDERS

1.—(1) Where it appears to a board that a parent of a child of compulsory school age in its area is failing to perform the duty imposed on him by Article 45(1), the board shall serve on the parent a notice requiring him, within such period not being less than fourteen days from the service of the notice as is specified in the notice, to satisfy the board that the child is, by regular

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attendance at school or otherwise, receiving efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

(2) Where a parent on whom a notice is served under sub-paragraph (1) fails within the period specified in the notice to satisfy the board that the child to whom the notice relates is receiving efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, the board shall, if it is of opinion that it is expedient that the child should attend school, serve in the prescribed manner on the parent an order in the prescribed form (in this Schedule referred to as a "school attendance order") requiring him to cause the child to become a registered pupil at the school named in the order.

(3) Before serving an order on a parent under sub-paragraph (2) the board shall, where practicable, give him an opportunity to select the school to be named in the order and, if the parent then selects a school, that school shall, unless the Department otherwise directs, be the school named in the order.

(4) Where the board is of the opinion that—

- (a) the school selected by a parent as the school to be named in a school attendance order is unsuitable to the age, ability, aptitude or special educational needs of the child with respect to whom the order is to be made; or
- (b) the attendance of the child at the school selected by the parent would prejudice the provision of efficient education or the efficient use of resources;

the board may, after giving to the parent notice of its intention to do so, apply to the Department for a direction determining the school to be named in the order.

(5) Where the board maintains a statement of special educational needs for the child under Article 31, the board or, in the case of a voluntary school, the managers shall admit the child to the school named in the order in pursuance of a direction of the Department under sub-paragraph (4).

(6) Where the school named in a school attendance order served under sub-paragraph (2) provides education for pupils up to the upper limit of compulsory school age or beyond, the order shall, subject to paragraph 2, continue in force so long as the pupil is of compulsory school age and where the school does not provide education up to or beyond that age the order shall expire when the pupil has reached the age at which he would normally leave that school.

2.—(1) Where, at any time whilst a school attendance order is in force with respect to a child, the parent of the child makes an application to the board by whom the order was made requesting that another school be substituted for that named in the order or requesting that the order be revoked on the ground that arrangements have been made for the child to receive otherwise than at school efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, the board shall amend or revoke the order in compliance with the request unless it is of the opinion that—

- (a) the proposed school is unsuitable to the age, ability, aptitude or special educational needs of the child; or
- (b) the attendance of the child at the school would prejudice the provision of efficient education or the efficient use of resources; or

(c) where the board maintains a statement of special educational needs for the child under Article 31, the proposed change of school is against the interests of the child; or

(d) no satisfactory arrangements have been made for the education of the child otherwise than at school.

(2) A parent who is aggrieved by a refusal of a board to comply with a request made under sub-paragraph (1) may refer the matter to the Department and the Department shall give such direction thereon as it thinks fit.

(3) Where in the case of a child for whom a board maintains a statement of special educational needs under Article 31 the Department gives a direction under sub-paragraph (2) directing the board to substitute another school for that named in the order the board or, in the case of a voluntary school, the managers shall admit the child to the school so substituted.

PART II

DUTY OF PARENT OF REGISTERED PUPIL TO SECURE HIS REGULAR ATTENDANCE AT SCHOOL

3.—(1) Subject to the following provisions of this paragraph, it shall be the duty of a parent of a registered pupil at a school to secure his regular attendance at that school.

(2) For the purposes of sub-paragraph (1) and of any proceedings brought under paragraph 4 in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school only by reason of his absence therefrom—

(a) at any time when he was prevented from attending by reason of sickness or other unavoidable cause;

(b) if the parent proves that the school at which the child is a registered pupil is not within walking distance of the child's home and either that—

(i) no arrangements whereby transport is available to the child have been made by the board under Article 52 and no arrangements have been made for boarding accommodation for him at or near the school or for enabling him to become a registered pupil at a school nearer to his home; or

(ii) any arrangements which have been made under Article 52 whereby transport is available to the child for any part of the journey between his home and school are such that he has still to walk more than walking distance in the course of that journey;

(c) at any time when he is employed in accordance with the provisions of Article 63(2).

(3) Where, in any proceedings brought against a parent on the ground that a child who is a registered pupil at a school has failed to attend that school regularly, it is proved that the child has no fixed abode, sub-paragraph (2)(b) shall not apply but the parent shall be entitled to be acquitted if he proves that he is engaged in any trade or business of such a nature as to require him to travel from place to place and that the child has attended (at the school at which he was a registered pupil) as regularly as the trade or business of the parent permitted provided that, in the case of a child who has attained the age of six years, he has so attended on at least one hundred days during the

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period of twelve months ending with the date on which the proceedings were instituted.

(4) In any proceedings as aforesaid in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom at a time when he was not prevented from being present by reason of sickness or other unavoidable cause.

(5) For the purpose of determining whether a child of compulsory school age who is a registered pupil at a school has failed to attend regularly because of sickness, a board may cause the child to be examined either at his home or elsewhere by a medical practitioner and where the parent of a child unreasonably prevents a board from exercising its power to have a child so examined he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) In this paragraph "walking distance" means, in relation to a child who has not attained the age of eleven years, two miles and, in the case of any other child, three miles measured by the nearest available route.

PART III

OFFENCES, PENALTIES AND ENFORCEMENT

4.—(1) Where a parent on whom a school attendance order has been served fails to comply with the requirements of the order or, subject to paragraph 3, where a child of compulsory school age who is a registered pupil at a school fails to attend regularly at that school, the parent shall be guilty of an offence unless he proves that he is causing the child to receive, otherwise than at school, efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

5.—(1) It shall be the duty of a board to institute proceedings against a parent for an offence under paragraph 4(1) where in its opinion the institution of such proceedings is necessary for the purposes of enforcing the duty imposed on a parent by Article 45 to cause his child to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

(2) Without prejudice to sub-paragraph (1), where—

(a) a child of compulsory school age who is a registered pupil at a school fails to attend regularly thereat; or

(b) a child in respect of whom a school attendance order has been made has not become a registered pupil at the school named in the order;

the board may, if satisfied that it is necessary to do so for the purpose of securing the regular attendance of the child at school, bring the child before a juvenile court.

(3) Without prejudice to the institution of proceedings for an offence under section 27 of the Children and Young Persons Act (Northern Ireland) 1968, where it appears to a board that a child of compulsory school age who is for

the time being in its area is a child whom a person habitually wandering from place to place takes with him, the board may, if satisfied that it is necessary to do so in order to secure that the child receives efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, bring the child before a juvenile court.

6.—(1) Where the court before which a prosecution is brought for an offence under paragraph 4 —

- (a) is, whether or not the parent is convicted of the offence, satisfied that the child in respect of whom the offence is alleged to have been committed has failed to attend regularly at the school at which he is a registered pupil; or
- (b) convicts a person of failure to comply with a school attendance order in respect of a child;

the court may direct that the child be brought before a juvenile court by the board by whom or on whose behalf the proceedings were instituted.

(2) Where a person against whom proceedings are taken for failure to comply with the provisions of a school attendance order is acquitted, the court may direct that the school attendance order shall cease to have effect but without prejudice to the duty of the board to take further action under this Schedule if at any time the board is of opinion that, having regard to any change of circumstances, it is expedient to do so.

7. A juvenile court before which a child is brought under sub-paragraph (2) or (3) of paragraph 5 or by virtue of a direction under paragraph 6(1) may, if it is satisfied that it is necessary to do so for the purpose of securing the regular attendance of the child at school or of securing that the child receives, otherwise than at school, full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, make any order which a juvenile court has power to make under section 95 of the Children and Young Persons Act (Northern Ireland) 1968 in the case of persons brought before it under section 94 of that Act.

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8. For the purposes of a prosecution of the parent of a child for an offence under paragraph 4, the parent of the child shall be required to give to the court such information as he possesses regarding the date and place, and place of registration, of the birth of the child and where the parent refuses or is unable to give such information, the child shall, in so far as his having been of compulsory school age at any time is material, be presumed to have been of compulsory school age at that time.

9. For the purposes of the Children and Young Persons Act (Northern Ireland) 1968,—

- (a) any child with respect to whom a direction has been given under paragraph 6(1) that he be brought before a juvenile court and any child brought before such a court by virtue of paragraph 5(2); and
- (b) any child who is about to be brought or is brought before a juvenile court by virtue of paragraph 5(3);

shall be deemed to be a child about to be brought or brought before such a court under section 94 of the said Act of 1968, and any order made by a juvenile court under paragraph 7 shall be deemed to be an order made under section 95 of the said Act of 1968 and the provisions of that Act shall have effect accordingly but subject to the modification that in relation to any such child section 99 of that Act shall have effect as if the words “A constable or” were omitted therefrom.

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10.—(1) Proceedings for an offence under this Schedule shall not be taken except by or on behalf of a board or by an officer appointed for the purpose and authorised in that behalf by the board.

(2) Any such officer appointed and authorised as aforesaid may, on behalf of a board,—

- (a) perform the functions of a board under sub-paragraph (2) or (3) of paragraph 5 or carry out any direction of a court given under paragraph 6(1);
- (b) although not of counsel or a solicitor, prosecute or conduct any proceedings brought under this Schedule before a court of summary jurisdiction and conduct any proceedings brought under this Schedule before a juvenile court.

Article 68.

SCHEDULE 14

APPOINTMENT OF TEACHERS

PART I

**APPOINTMENT OF PRINCIPALS AND CERTAIN OTHER TEACHERS IN
CONTROLLED SCHOOLS**

1. This Part applies to the appointment of a teacher to a post of principal, or such other post as may be prescribed, in a controlled school other than a technical intermediate school and in this Part the expression “post” shall be construed accordingly.

2. Subject to the provisions of any regulations a board may, without advertisement, appoint a teacher to a vacant post if—

- (a) the teacher is a teacher in the school to which the appointment is to be made and the Board of Governors of the school has given to the board its prior consent to the appointment; or
- (b) the teacher is a person employed in any grant-aided school in a post of principal or such other post as may be prescribed and the Board of Governors of the school to which the appointment is to be made has given to the board its prior consent to the appointment.

3.—(1) Except as otherwise provided in paragraph 2, where it is necessary for a board to appoint a person to a post—

- (a) the board shall advertise the post in the prescribed manner;
- (b) applications for the post shall be made to the board on forms approved by the Department;
- (c) the board shall send to the Board of Governors of the school to which the appointment is to be made the application forms from candidates for the appointment who appear to the board to be qualified or provisionally qualified for the post.

(2) The Board of Governors shall, at a meeting or meetings duly convened for the purpose, consider all application forms sent to it under sub-paragraph (1)(c) and, after interviewing such number, if any, of the candidates as it considers necessary, shall—

- (a) if there are more than three qualified or provisionally qualified candidates either—
 - (i) submit to the board the names of three such candidates as it considers most suitable for appointment; or

- (ii) inform the board that it cannot recommend any of the candidates;
- (b) if there are less than four qualified or provisionally qualified candidates either—
 - (i) submit to the board the name or names of the candidate or candidates whom it is prepared to recommend; or
 - (ii) inform the board that it is not prepared to recommend any of the candidates.

(3) Where the Board of Governors recommends a candidate or candidates for appointment, the board may interview the candidate or any of the candidates and may appoint to the post any candidate recommended by the Board of Governors.

(4) Where a Board of Governors informs the board that it is not prepared to recommend any of the candidates and the board agrees that none of the candidates should be appointed, the board may again advertise the post in the prescribed manner and where it does so shall again comply with the provisions of this paragraph.

(5) Where the board is not prepared to appoint the candidate or any of the candidates recommended by the Board of Governors or where the Board of Governors has informed the board that it is not prepared to recommend any of the candidates and the board is of opinion that one of the candidates should be appointed or the Board of Governors fails to comply with sub-paragraph (2), and if, after consultation with the Board of Governors, the board and the Board of Governors cannot agree either that one of the candidates should be appointed or that the post should be advertised again under sub-paragraph (1) and that this paragraph be again complied with, the board shall refer the matter to the Department.

(6) Where a matter is referred to the Department under sub-paragraph (5) the Department shall, after making such inquiries, if any, as it considers necessary, either—

- (a) direct the appointment of one of the candidates; or
- (b) direct the board to advertise the post again in the prescribed manner and to comply again with the provisions of this paragraph;

and the board shall then forthwith take all necessary steps to comply with the Department's directions.

(7) In this paragraph "provisionally qualified" in relation to a candidate for appointment to a teaching post means a person who may reasonably be expected to hold such qualifications as may be approved by the Department for appointment to such post before the date on which the appointment would take effect.

4. Where, at a meeting of the Board of Governors of a school, the principal disagrees with any decision of the Board of Governors taken in the exercise of its functions under this Part in relation to his school, that disagreement and the reasons for it shall, if the principal so requests, be recorded in the minutes of the meeting and notified to the board at the same time as the decision of the Board of Governors.

5. The functions of a board under this Part shall be performed on behalf of the board by the teaching appointments committee of the board.

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PART II

**APPOINTMENT OF ASSISTANT TEACHERS IN
CONTROLLED SCHOOLS**

6. In this Part “assistant teacher” means a teacher (other than a principal or the holder of such other post as may be prescribed under paragraph 1) in a controlled school other than a technical intermediate school.

7.—(1) Where it is necessary for a board to appoint a person as an assistant teacher, other than a temporary or part-time assistant teacher, in a controlled school in the area of the board—

- (a) the board shall advertise the post in the prescribed manner;
- (b) applications for the post shall be made to the board on forms approved by the Department;
- (c) the board shall send to the Board of Governors of the school to which the appointment is to be made, the application forms from candidates for the appointment who appear to the board to be qualified or provisionally qualified for the post.

(2) The Board of Governors shall, at a meeting or meetings duly convened for the purpose, consider all application forms sent to it under sub-paragraph (1)(c) and, after interviewing such number, if any, of the candidates as it considers necessary, shall either—

- (a) inform the board that in its opinion none of the candidates should be appointed; or
- (b) inform the board of the name of the candidate whom it proposes should be appointed and of the names of such other candidates, if any, as it proposes should be offered the appointment if the first-named candidate is for any reason not available for appointment, the names of such other candidates, if more than one, being placed in the order in which it considers that they should be offered the appointment.

(3) Where a Board of Governors informs the board that in its opinion none of the candidates should be appointed and—

- (a) the board is satisfied that none of the candidates should be appointed, the board may again advertise the post in the prescribed manner and, where it does so, shall again comply with the provisions of this paragraph; or
- (b) the board is of opinion that one of the candidates should be appointed and if, after consultation with the Board of Governors, the board and the Board of Governors cannot agree either on the appointment of one of the candidates, or that the post should be advertised again under sub-paragraph (1) and that this paragraph be again complied with, the board shall refer the matter to the Department.

(4) Where a Board of Governors makes proposals under sub-paragraph (2)(b) for the appointment of a candidate and the board is satisfied to act in accordance with those proposals, the board shall take all necessary steps to appoint a candidate in accordance with those proposals but where the board is not so satisfied or the Board of Governors fails to comply with sub-paragraph (2) then, if after consultation with the Board of Governors, the board and the Board of Governors cannot agree either on the appointment of one of the candidates or that the post should be advertised again under

sub-paragraph (1) and that this paragraph be again complied with, the board shall refer the matter to the Department.

(5) Where a matter is referred to the Department under sub-paragraph (3) or (4), the Department may make such inquiries, if any, as it thinks necessary and shall then either—

- (a) direct that a candidate be appointed in accordance with the proposals of the board or the Board of Governors; or
- (b) direct that some other candidate be appointed; or
- (c) direct the board to advertise the post again in the prescribed manner and to comply again with the provisions of this paragraph;

and the board shall then forthwith take all necessary steps to comply with the Department's directions.

(6) A board may appoint a person as a temporary or part-time teacher in a controlled school under its management without complying with the foregoing provisions of this paragraph but where the Board of Governors of the school objects to the appointment—

- (a) the board shall refer the matter to the Department;
- (b) the Department shall consider any representations made to it by the board or the Board of Governors; and
- (c) the Department shall determine whether the appointment should be continued and, if not, the date on which it should terminate.

(7) A board may, with the prior consent of the Board of Governors of the school to which a teacher is being appointed and without complying with the foregoing provisions of this paragraph, appoint to a post of assistant teacher in a controlled school under its management a teacher who is employed by that or another board or is employed in any grant-aided school.

(8) Where, at a meeting of the Board of Governors of a school, the principal disagrees with any decision of the Board of Governors taken in the exercise of its functions under this paragraph in relation to his school, that disagreement and the reasons for it shall, if the principal so requests, be recorded in the minutes of the meeting and notified to the board at the same time as the decision of the Board of Governors.

(9) In this paragraph "provisionally qualified" has the same meaning as in paragraph 3.

PART III

APPOINTMENT OF PERIPATETIC AND SUPPLY TEACHERS

8.—(1) 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 by arrangements so made and approved.

(2) The number of supply teachers employed by a board shall be subject to the approval of the Department.

9.—(1) Where a board intends to appoint either a peripatetic teacher or a supply teacher the board shall advertise the post in the prescribed form and applications shall be made to the board on forms approved by the Department.

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(2) The board shall, at a meeting or meetings duly convened for the purpose, consider all application forms sent to it from candidates for the post who appear to the board to be qualified for the appointment and the board, after interviewing such number of the candidates as it considers necessary, may appoint a candidate or candidates.

(3) Where the board is not prepared to appoint any of the candidates interviewed by it, the board shall refer the matter to the Department and the Department shall, after making such inquiries, if any, as it considers necessary,—

- (a) direct the appointment of a particular candidate or candidates; or
- (b) direct the board to advertise the post again and to comply again with the provisions of sub-paragraphs (1) and (2); or
- (c) direct the board not to make an appointment;

and the board shall then comply with the Department's directions.

(4) A board may without complying with the foregoing provisions of this paragraph—

- (a) appoint as a peripatetic or supply teacher a teacher employed by it or a teacher employed in a grant-aided school in the area of the board; or
- (b) employ a peripatetic or supply teacher in a part-time or temporary capacity.

10. Where the Board of Governors of a controlled school or the management committee of an institution of further education objects to the employment of a supply teacher in a school or institution under its management—

- (a) the board shall refer the matter to the Department;
- (b) the Department shall consider any representations made to it by the board or the Board of Governors or the management committee; and
- (c) the Department shall determine whether the teacher should or, as the case may be, should continue to be employed in that school or institution.

11. A board may permit peripatetic or supply teachers employed by it to be employed in a voluntary school if so requested by the managers of that school.

Article 82(2).

SCHEDULE 15

THE STAFF COMMISSION FOR EDUCATION AND LIBRARY BOARDS

1954 c. 33 (N.I.) 1. The Staff Commission shall be a body corporate to which, subject to paragraph 3(2), section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

2.—(1) The members of the Staff Commission shall be appointed by the Head of the Department and shall consist of—

- (a) a chairman;
- (b) five members of boards appointed after consultation with all the boards;
- (c) two chief officers of boards appointed after consultation with the chief officers of all the boards;

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- (d) one chief librarian of a board appointed after consultation with the chief librarians of all the boards;
- (e) two persons, not being chief officers or chief librarians of boards, appointed after consultation with such associations representative of the staff of boards as the Head of the Department considers appropriate;
- (f) two other persons.

(2) The term of office of a member of the Staff Commission shall be such as the Head of the Department may determine but a member shall be eligible for re-appointment on the expiry of his period of office.

(3) An officer of the Department may be appointed by the Head of the Department as assessor to the Staff Commission with the right to receive notices of, and to attend and speak at, meetings of the Commission but he shall not be entitled to vote.

(4) The Staff Commission may appoint a person as observer to attend any meeting of a board or committee of a board at which the appointment of officers is being considered and a board shall give an observer so appointed notice of and access to any such meeting.

(5) The Staff Commission may pay—

- (a) to its chairman such remuneration as may be determined by the Department with the approval of the Department of Finance and Personnel;
- (b) to its chairman and its other members such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Department.

3.—(1) The functions of the Staff Commission shall be—

- (a) to make recommendations regarding the training of officers of boards;
- (b) to recommend appointment and promotion procedures for officers of boards and to establish a code of procedure for securing fair and equal consideration of applications to boards by persons seeking to be employed as officers of boards and fair and equal treatment of persons who are so employed;
- (c) to establish advisory panels for the purpose of giving advice to boards on the suitability of applicants for appointment to such offices as the Commission considers appropriate;
- (d) to ensure that suitable machinery exists for negotiating the terms and conditions of employment of all officers of boards;
- (e) to perform such other functions as the Department may from time to time assign to it;

but the functions specified in paragraph (c) shall not be exercised in relation to appointments to which Article 83(1) or 88 applies.

(2) The right of the Staff Commission under section 19(1)(a)(vi) of the Interpretation Act (Northern Ireland) 1954 to employ staff shall be exercised subject to any direction which may be given by the Department with respect to the number and terms and conditions of service of persons employed or to be employed by the Commission.

1954 c. 33 (N.I.)

(3) Where the Staff Commission makes a recommendation to a board and the board does not comply with the recommendation within a reasonable

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period, the Staff Commission may refer the matter to the Department and the Department shall give such directions to the board or the Staff Commission as it thinks fit.

(4) Each board shall—

- (a) make such reports and returns with respect to its officers and their terms and conditions of employment;
- (b) furnish such estimates of its probable future staff requirements;
- (c) give such information with respect to matters connected with the employment of any officer;

to the Commission, and within such time, as the Commission may require.

4. The Staff Commission shall keep such accounts and records as the Department may direct.

5. In respect of each financial year—

- (a) the Staff Commission shall prepare and submit to the Comptroller and Auditor General for Northern Ireland a statement of accounts before such date, in such form and containing such information as the Department, with the approval of the Department of Finance and Personnel, may direct and shall before that date send a copy thereof to the Department;
- (b) the Comptroller and Auditor General for Northern Ireland shall examine and certify the statement of accounts submitted to him by the Staff Commission; and
- (c) the Department shall lay before the Assembly a copy of the certified statement of accounts of the Staff Commission together with a copy of any report thereon of the Comptroller and Auditor General for Northern Ireland.

6. The Comptroller and Auditor General for Northern Ireland in the discharge of his functions under this paragraph shall have right of access to the books, accounts and records of the Staff Commission and may require from any member, officer or servant or former member, officer or servant of the Staff Commission such information relating to the affairs of the Staff Commission as he may think necessary for the proper performance of those functions.

7. Articles 86, 103(1), 113 and 114 shall apply to the Staff Commission in like manner as they apply to a board.

Articles 105(4),
106(2).

SCHEDULE 16

**MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT
(NORTHERN IRELAND) 1972 FOR THE PURPOSES OF
ARTICLES 105(4) AND 106(2)**

PART I

**MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT
(NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 105(4)**

1. References to the Ministry concerned or to the council shall be construed as references to the Department within the meaning of this Order.

2. References to the said Schedule 6 shall be construed as references to that Schedule as modified by this Part.

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3. Paragraph 1 shall be omitted.
4. In paragraph 2—
 - (a) for the words from the beginning to “directs” there shall be substituted “Where the Department proposes to acquire land under Article 105(4) otherwise than by agreement, it shall give public notice of its intention to do so and such notice”;
 - (b) in sub-paragraph (c) for the words “as may be prescribed” there shall be substituted the words “as the Department considers fit”.
5. For paragraph 3(1)(ii) there shall be substituted “decide not to make the order”.
6. In paragraph 4 the words from “and may provide” to the end of the paragraph shall be omitted.
7. In paragraph 5—
 - (a) in sub-paragraph (1)(a) the words “in the prescribed form and manner” shall be omitted;
 - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
 - (c) in sub-paragraph (1)(d) the words “in the prescribed form” shall be omitted;
 - (d) in sub-paragraph (2) for the words “as may be prescribed” there shall be substituted the words “as the Department considers fit”.
8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” there shall be substituted the words “Consolidated Fund” and for the words “out of the compensation fund” there shall be substituted the words “made by the Department”.
9. In paragraph 11(3) the words “in the prescribed form” shall be omitted.
10. In paragraph 12 in sub-paragraph (1) the words “such” and “as may be prescribed” shall be omitted and in sub-paragraph (2) for the words from “clerk” to “directs” there shall be substituted the words “Department as correct, and shall publish”.
11. In paragraph 14(1), the words “in the prescribed form” shall be omitted.
12. In paragraph 15(1) for the words “in the prescribed form” there shall be substituted the words “in such form as may be approved by the Department”.
13. Paragraph 19 shall be omitted.
14. In paragraph 20, sub-paragraph (2) shall be omitted.

PART II

**MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT
(NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 106(2)**

1. For any reference to a council or the council or the clerk of the council there shall be substituted a reference to a board or the board or the chief officer of the board respectively.
2. For any reference to the Ministry concerned there shall be substituted a reference to the Department.

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3. For any reference to that Act there shall be substituted a reference to this Order.

4. Any references to that Schedule shall be construed as references to that Schedule as modified by this Part.

5. For any reference to a matter prescribed by regulations made by the Department of the Environment there shall be substituted a reference to a matter prescribed by regulations made by the Department of Education.

6. In paragraphs 2(c) and 5(2) for the words "as may be prescribed" there shall be substituted the words "as appear to the board to have an interest in the matter".

7. Paragraph 19 shall be omitted.

Article 120(3).

SCHEDULE 17

THE NORTHERN IRELAND SCHOOLS EXAMINATIONS COUNCIL

PART I

THE CONSTITUTION OF THE COUNCIL

1.—(1) The Council shall consist of a Chairman appointed by the Head of the Department and not less than 37 nor more than 40 other members appointed by the Head of the Department in accordance with sub-paragraph (2).

(2) The other members shall be—

15 persons representing teachers in secondary schools;

3 persons representing teachers in institutions of further education;

12 persons representing universities and other institutions of higher education;

5 persons representing education and library boards;

2 persons representing industry and commerce;

and not more than 3 additional persons who in the opinion of the Head of the Department are suitable for appointment to the Council.

2.—(1) The Head of the Department may appoint three assessors to the Council and the Head of the Department of Economic Development may appoint one such assessor.

(2) An assessor shall be entitled to receive notice of, and to attend and speak at, meetings of the Council and of committees and sub-committees thereof, but shall not be entitled to vote.

1954 c. 33 (N.I.)

(3) Section 18(2) of the Interpretation Act (Northern Ireland) 1954 (except so much thereof as relates to remuneration) shall apply to the appointment of assessors under this paragraph.

3.—(1) The term of office of the Chairman and the other members of the Council shall be three years or such shorter period as may be determined by the Head of the Department at the time the appointment is made but a person appointed to fill a casual vacancy shall hold office only for the remainder of the term for which the member he replaces was appointed.

(2) A member of the Council shall be eligible for re-appointment on the expiry of his period of office.

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(3) A member shall be deemed to have vacated his office and the Council shall declare his place vacant in the following circumstances—

- (a) where he gives to the Head of the Department a notice in writing of his resignation;
- (b) where he becomes bankrupt or makes a composition with his creditors;
- (c) where, in the opinion of the Head of the Department, he—
 - (i) becomes incapacitated to hold office, or
 - (ii) ceases to represent the interest for which he was appointed, and the Head of the Department so informs the Council in writing;
- (d) where he is convicted of an indictable offence and is sentenced to a term of imprisonment of not less than three months; or
- (e) where he fails, without leave of the Council, to attend any meetings of the Council or of a committee or sub-committee thereof for a period of twelve consecutive months.

PART II

SUPPLEMENTARY PROVISIONS AS TO THE COUNCIL

4. The Council shall make arrangements for the consideration by the Council of appeals against any decision or complaints against any action of the Council.

5.—(1) The Council shall appoint a Finance Committee not less than one-third of the members of which shall be members for the time being appointed to the Council as representing education and library boards.

(2) The Council may appoint such other committees as it thinks fit.

(3) A committee appointed under sub-paragraph (2) may include persons who are not members of the Council.

(4) The Council may delegate any of its functions to a committee but functions which relate to finance may be delegated only to the Finance Committee.

(5) The Council may authorise a committee to appoint sub-committees for such purposes as the Council may approve and the membership of such sub-committees may include persons who are not members of the Council or of the committee which appointed the sub-committee.

(6) The powers of any committee or any sub-committee appointed under this paragraph shall be exercised, and the proceedings of the committee or sub-committee shall be regulated, in accordance with, and subject to, any directions given by the Council.

6. The proceedings of the Council or of any committee or sub-committee shall not be invalidated by any vacancy in the membership of the Council, or of any committee or sub-committee, or by any defect in the appointment of a member.

7. Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954, the Council shall make standing orders relating to the convening of meetings of the Council and of committees and sub-committees, the fixing of the quorum, the conduct of business at meetings, the keeping of minutes, accounts and other records, the signing of cheques,

1954 c. 33 (N.I.)

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the custody of deeds and other documents, the duties of officers and such other matters connected with the conduct of its business as it thinks fit.

8. The common seal of the Council shall, when applied to a document, be attested by the signatures of any two members of the Council authorised by the Council to act for that purpose.

1954 c. 33 (N.I.) 9. The power of the Council under section 19(1)(a)(iv) of the Interpretation Act (Northern Ireland) 1954 to acquire, hold, dispose or charge real property shall not be exercised without the approval of the Department.

10.—(1) The right of the Council under section 19(1)(a)(vi) of the Interpretation Act (Northern Ireland) 1954 to employ staff shall be exercised subject to any directions which may be given by the Department, with the approval of the Department of Finance and Personnel, with respect to the number and terms and conditions of service of persons employed or to be employed by the Council.

(2) The officers of the Council shall be appointed at such rates of remuneration as the Council may, with the consent of the Department given subject to the approval of the Department of Finance and Personnel, determine.

(3) The Council may, in accordance with arrangements determined by the Department with the approval of the Department of Finance and Personnel, make provision for the payment on death or retirement of pensions, gratuities or other like benefits to or in respect of the service of officers of the Council.

(4) The Council shall, after consultation with the Department, appoint a fit person to be its chief officer.

(5) Before making any appointment under sub-paragraph (4), the Council shall supply to the Department particulars of the names, previous experience and qualifications of the persons from whom it proposes to make a selection, and if the Department considers that any person whose name is submitted is not a fit person to be the chief officer of the Council, the Department may give directions prohibiting his appointment.

(6) A person who is an officer of the Council shall not be qualified to be a member of the Council.

11. The Council may pay to any member of the Council or to any member of a committee or sub-committee thereof (including persons who are not members of the Council) travelling, subsistence and other allowances at such rates as the Department may approve.

12.—(1) Arrangements made by the Council for the conduct of the relevant examinations may include provision—

- (a) for the conduct of external examinations on syllabuses prescribed by the Council;
- (b) for the conduct of external examinations on syllabuses prepared by individual schools or groups of schools or by individual institutions of further education or groups of such institutions or groups of schools and such institutions;
- (c) for external assessment of examinations conducted internally by individual schools or groups of schools or by individual institutions of further education or groups of such institutions or groups of schools and such institutions.

(2) The Council may enter into arrangements to perform functions or

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provide services on behalf of any other examining body or authority and such arrangements may provide for the payment by the said body or authority of the whole or part of any expenditure incurred by the Council in carrying out the arrangements.

(3) The Council may arrange for the relevant examinations, or part thereof, to be conducted on its behalf by any other examining body or authority and may make payments to that body or authority in respect of the expenditure incurred by it in carrying out the arrangements.

(4) The Council shall seek to ensure that the standards of the relevant examinations are recognised as equivalent to the standards of examinations conducted by other examining bodies exercising similar functions elsewhere in the United Kingdom.

(5) The Council may conduct investigations into methods of examining and such other matters as the Council may determine, may take part in investigations into such matters conducted by another body, and may make to such body payments in respect of the expenditure incurred by it in conducting such investigations.

(6) The Council shall appoint such examiners, moderators and other persons as it considers necessary and shall pay them such salaries, fees or other allowances as the Council may, with the approval of the Department, determine.

(7) The Council shall publish rules and syllabuses for the relevant examinations and may publish specimen examination papers and such other material as it considers desirable.

(8) The Council shall charge examination fees at rates approved by the Department.

(9) Every certificate awarded by the Council shall be signed on behalf of the Council.

SCHEDULE 18

Article 132(2).

AMENDMENTS

The Disabled Persons Employment Act
(Northern Ireland) 1945 (c. 6)

In sections 2(1) and 3(1) for "Act (Northern Ireland) 1947" substitute "and Libraries (Northern Ireland) Order 1986".

The Exchequer and Financial Provisions Act
(Northern Ireland) 1950 (c. 3)

In section 33(1) for the words from "under" to "so, however" substitute "under Article 116 of the Education and Libraries (Northern Ireland) Order 1986, or any payment by that Department to boards under Article 114 of that Order for the purpose 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, so, however".

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The Children and Young Persons Act
(Northern Ireland) 1968 (c. 34)

In section 27(1) after “aptitude” insert “and to any special educational needs (within the meaning of the 1986 Order) he may have”.

In section 37(1)(a) and (4)(a)(i) for the words from “which is” to “school age” substitute “of thirteen years”.

In section 40(6) for the words from “whether” to “registered” substitute “whether, under Article 45 of and Schedule 13 to the 1986 Order, a registered”.

In section 85(4) for the words from “under” to “shall” substitute “under paragraph 5(3) of Schedule 13 to the 1986 Order shall”.

In section 149 for subsection (3) substitute—

“(3) Any expenses incurred by an education and library board in the exercise of its functions under this Act shall be defrayed as part of the payments referred to in Article 113 of the 1986 Order.”.

In section 173(1)(b) for the words from “under” to “sending” substitute “under Part III of Schedule 13 to the 1986 Order sending”.

In section 180 for the definitions of “compulsory school age”, “local education authority” and “school” substitute respectively—

“compulsory school age” has the same meaning as in the 1986 Order, except that for the purposes of sections 37(1)(a) and 87(1) it shall be construed without regard to the provisions of Article 46(2) of that Order;

“local education authority” shall be construed in accordance with Article 3(1) of the 1986 Order;

“school” has the same meaning as in the 1986 Order;

and at the appropriate place in alphabetical order insert—

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986;.

The Commissioner for Complaints Act
(Northern Ireland) 1969 (c. 25)

In Part II of Schedule 1 insert, at the appropriate places in alphabetical order, the following entries—

Education and Library Boards constituted under the Education and Libraries (Northern Ireland) Order 1986;

The Northern Ireland Schools Examinations Council.

The Health and Personal Social Services
(Northern Ireland) Order 1972 (NI 14)

In Article 2(2) for “Order 1972” (wherever occurring) substitute “Order 1986”.

In Article 9(1)(a) for the words from “under” to the end substitute “under Article 6(3) or (4) of the Education and Libraries (Northern Ireland) Order 1986”.

In Article 9(8) for “under Article 6(2) of the said Order of 1972” (where twice occurring) substitute “under Article 6(3) or (4) of the said Order of 1986”.

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The Planning (Northern Ireland) Order 1972 (NI 17)

In Article 17A(2) in the definition of "educational institution" for "1972" substitute "1986", for "Article 55" substitute "Article 66" and for "Article 23" substitute "Article 27".

The Fair Employment (Northern Ireland) Act 1976 (c. 25)

In section 57(1) in the definition of "school" for "1972" substitute "1986" and in the definition of "training" in paragraph (b) for "1972" substitute "1986" and for "Article 23(3)" substitute "Article 27(3)" and for paragraph (c) substitute the following paragraph—

“(c) a college of education within the meaning of that Order;”.

The Sex Discrimination
(Northern Ireland) Order 1976 (NI 15)

In Article 2(2) for "1972" (wherever it occurs) substitute "1986" and in the definition of "upper limit of compulsory school age" for "Article 36" substitute "Article 46".

In Article 24 in the Table after paragraph 1 insert the following paragraph—

“1A. College of education, other The managers.”
 than an establishment
 referred to in
 Article 82(3).

and in paragraph 5 for "Article 23(3)(b)" substitute "Article 27(3)(b)" and for "1972" substitute "1986".

In Article 25 for "1972" substitute "1986".

In Article 26(2) for "Article 90" substitute "Article 101" and for "1972" substitute "1986".

In Article 26(4)(b) after "paragraph 1" insert ", 1A".

In Article 82(3) for "Article 55(1)" substitute "Article 66(1)" and for "1972" substitute "1986".

The Industrial Relations (No. 2)
(Northern Ireland) Order 1976 (NI 28)

In Article 39(1)(e) for "1972" substitute "1986".

In Article 39(1) for sub-paragraph (f) substitute the following sub-paragraph—

“(f) a member of any of the following (within the meaning of the Education and Libraries (Northern Ireland) Order 1986), namely—
 (i) the Board of Governors of a grant-aided school;
 (ii) the management committee of an institution of further education;
 (iii) the managers of a college of education.”.

The Rates (Northern Ireland) Order 1977 (NI 28)

In Schedule 13 for "1972" (where it twice occurs) substitute "1986" and for "maintained school committee" substitute "Board of Governors of a maintained school".

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The Chronically Sick and Disabled Persons
(Northern Ireland) Act 1978 (c. 53)

In section 8(2)(b) for "1972" substitute "1986" for "Article 55" substitute "Article 66" and for "Article 23" substitute "Article 27".

The Legal Aid, Advice and Assistance
(Northern Ireland) Order 1981 (NI 8)

In Part I of Schedule 1 in paragraph 3(f) for "Schedule 9" substitute "Schedule 13" and for "1972" substitute "1986".

The Employment (Miscellaneous Provisions)
(Northern Ireland) Order 1981 (NI 20)

In Article 11(5)(f) in head (iii) for "1972" substitute "1986" and for head (iv) substitute the following head—

"(iv) a college of education within the meaning of that Order;"

The Magistrates' Courts
(Northern Ireland) Order 1981 (NI 26)

In Article 15(3) for "Schedule 9" substitute "Schedule 13" and for "1972" substitute "1986".

Article 133(1).

SCHEDULE 19

TRANSITIONAL PROVISIONS

General

1. In so far as anything done or having effect as if done under or in pursuance of any provision repealed by this Order could have been done under or in pursuance of a corresponding provision of this Order, it shall have effect as if done under or in pursuance of that provision.

2. Where any period of time specified in any provision repealed by this Order is current at the coming into operation of this Order, this Order shall have effect as if the corresponding provision of this Order had been in force when that period began to run.

School management

3.—(1) This paragraph applies to a voluntary grammar school the trustees or governing body of which had entered into an agreement with the Department or a board or boards under Schedule 6 to the 1972 Order which was existing immediately before 1st August 1984.

(2) Subject to sub-paragraph (3), an agreement made, or having effect as if made, by the trustees or governing body of a school to which this paragraph applies with the Department or a board or boards under paragraph 1 of Schedule 6 to the 1972 Order and existing immediately before 1st August 1984 shall continue to have effect as if made under paragraph 1 of Schedule 6 to this Order.

(3) Any reference in any such agreement to a period of years for which a person appointed to the Board of Governors of the school by the Head of the Department or by a board or boards is to hold office shall, in relation to any appointment made on or after 1st August 1984, have effect as if it were a reference to a period of four years.

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(4) Any scheme approved under Article 9(2) of the 1972 Order by the Department for a school to which this paragraph applies shall continue to have effect as if approved under Article 11(2) of this Order but, so far as it relates to the constitution of the Board of Governors of the school, shall have effect, in relation to any appointment of a Board of Governors made after 1st August 1984, subject to the provisions of paragraph 3 of Schedule 6 to this Order.

4.—(1) This paragraph applies to a voluntary grammar school, the trustees or governing body of which had not entered into an agreement with the Department or a board or boards under Schedule 6 to the 1972 Order which was existing immediately before 1st August 1984.

(2) Any scheme approved under Article 9(2) of the 1972 Order by the Department for a school to which this paragraph applies shall continue to have effect as if approved under Article 11(2) of this Order but, so far as it relates to the constitution of the Board of Governors of the school, shall have effect, in relation to any appointment of a Board of Governors made after 1st August 1984, subject to the provisions of paragraph 2 of Schedule 7 to this Order.

Special education

5. Notwithstanding the repeal by this Order of the Education (Northern Ireland) Order 1984—

1984 NI 6

- (a) paragraph 8 of Schedule 9 to that Order shall continue to apply in relation to any child mentioned in sub-paragraph (1) of that paragraph, but with the substitution in sub-paragraphs (2) to (7) for references to provisions of the 1972 Order of references to the corresponding provisions of this Order;
- (b) paragraph 9 of Schedule 9 to that Order shall continue to apply in relation to any child mentioned in sub-paragraph (1) of that paragraph, but with the substitution in sub-paragraph (4) for the reference to Schedule 7A to the 1972 Order of a reference to Schedule 11 to this Order.

Article 116

6. In relation to grants in respect of—

- (a) the provision or alteration of premises the work on which commenced; and
- (b) the provision of equipment the expenditure for which was approved, before 6th November 1974, Article 116(1)(a)(i) and (b)(i) shall have effect as if for the words “eighty-five per cent.” there were substituted the words “eighty per cent.” and any question as to whether the work commenced or the expenditure was approved before that date shall be determined by the Department and that determination shall be final.

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Article 134.

SCHEDULE 20

REPEALS

Number	Short Title	Extent of Repeal
1972 NI 12	The Education and Libraries (Northern Ireland) Order 1972.	The whole Order.
1972 NI 21	The Local Government (Postponement of Elections and Reorganisation) (Northern Ireland) Order 1972.	Article 4(2)(e). In Parts I and II of Schedule 1 the entries relating to the 1972 Order.
1976 NI 2	The Education (Northern Ireland) Order 1976.	The whole Order.
1978 NI 10	The Education (Northern Ireland) Order 1978.	The whole Order, except Articles 1, 2(1) and 17.
1978 NI 11	The Financial Provisions (Northern Ireland) Order 1978.	Article 11.
1978 NI 20	The Rent (Northern Ireland) Order 1978.	In Schedule 8, paragraph 8.
1979 NI 12	The Statutory Rules (Northern Ireland) Order 1979.	In Schedule 4, paragraph 13.
1980 NI 16	The Education (Northern Ireland) Order 1980.	The whole Order.
1981 NI 26	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraphs 131 and 132.
1984 c. 46	The Cable and Broadcasting Act 1984.	In Schedule 5, paragraph 26.
1984 NI 3	The Fines and Penalties (Northern Ireland) Order 1984.	In Schedule 2, paragraph 7. In Schedule 3, the entries relating to the 1972 Order.
1984 NI 6	The Education (Northern Ireland) Order 1984.	The whole Order.
1984 NI 9	The Industrial Training (Northern Ireland) Order 1984.	In Schedule 3, paragraph 5.
1984 NI 10	The University of Ulster (Northern Ireland) Order 1984.	In Schedule 1, the amendments to the 1972 Order.

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EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates the Education and Libraries (Northern Ireland) Order 1972 and the provisions amending that Order.

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THE EDUCATION AND LIBRARIES
(NORTHERN IRELAND) ORDER 1986

TABLE OF DERIVATIONS

NOTES:—(1) The following abbreviations are used in this Table—
 1972 —The Education and Libraries (Northern Ireland) Order 1972 (NI 12).
 1973 —The Northern Ireland Constitution Act 1973 (c. 36).
 1976 —The Education (Northern Ireland) Order 1976 (NI 2).
 1978 —The Education (Northern Ireland) Order 1978 (NI 10).
 1980 —The Education (Northern Ireland) Order 1980 (NI 16).
 1984F—The Fines and Penalties (Northern Ireland) Order 1984 (NI 3).
 1984 —The Education (Northern Ireland) Order 1984 (NI 6).
 1984U—The University of Ulster (Northern Ireland) Order 1984 (NI 10).

(2) This Table does not acknowledge Article 5 of the Fines and Penalties (Northern Ireland) Order 1984 (NI 3) which substitutes references to levels on the standard scale for references to the amounts of fines on conviction of offences punishable on summary conviction only.

(3) This Table does not acknowledge the following provisions by virtue of which the functions of the Ministry of Finance under the Education and Libraries (Northern Ireland) Order 1972 are now vested in the Department of Finance and Personnel—

The Departments (Transfer of Functions) (No. 2) Order (Northern Ireland) 1976 (S.R. 1976 No. 281).

The Departments (Northern Ireland) Order 1982 (NI 6).

Provision of Order	Derivation
1	—
2(1)–(2)	1972 Art. 2; 1973 Sch. 5 paras. 1, 8; 1978 Arts. 6(2), 8(1); 1984 Art. 16(3), Sch. 8 paras. 1, 2; Cable and Broadcasting Act 1984 (c. 46) Sch. 5 para. 26
(3)	—
3	1972 Art. 3
4	1972 Art. 4; 1978 Art. 3(1); 1984 Sch. 8 para. 3
5	1972 Art. 5; 1984 Art. 20, Sch. 8 para. 4
6	1972 Art. 6; 1980 Art. 3; 1984 Art. 15
7	1972 Art. 7(1)
8	1972 Art. 10; 1976 Sch. para. 2; 1978 Art. 4; 1984 Art. 14(1), Sch. 8 para. 5
9	1972 Art. 19(1); 1984 Art. 13(1), Sch. 8 paras. 6, 10
10	1972 Art. 8; 1984 Art. 3(1)
11	1972 Art. 9; 1984 Art. 4(1)
12	1984 Art. 5
13	1984 Art. 6

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Provision of Order	Derivation
14	1972 Art. 11A; 1978 Art. 5(2); 1984 Art. 22
15	1972 Art. 12(3)-(6); 1978 Art. 5(3); 1984 Sch. 8 para. 6
16	1972 Art. 13; 1978 Art. 5(4); 1984 Sch. 8 para. 7
17	1972 Art. 14
18	1972 Art. 15; 1984 Sch. 8 para. 8
19	1972 Art. 9A; 1984 Art. 21
20	1984 Art. 7
21	1972 Art. 16; 1978 Sch. 1 para. 1
22	1972 Art. 17; 1984 Sch. 8 para. 9
23	1972 Art. 18
24	1972 Art. 20; 1984 Sch. 8 para. 11
25	1972 Art. 21
26	1972 Art. 22; 1984 Art. 23
27	1972 Art. 23; 1984 Art. 20; Industrial Training (N.I.) Order 1984 (NI 9) Sch. 3 para. 5
28	1972 Art. 24(1)-(4)
29	1972 Art. 25; 1984 Art. 16
30	1972 Art. 25A; 1984 Art. 16
31	1972 Art. 25B; 1984 Art. 16
32	1972 Art. 25C; 1984 Art. 16
33	1972 Art. 25D; 1984 Art. 16
34	1972 Art. 26(2), (3)
35	1972 Art. 25E; 1984 Art. 16
36	1972 Art. 26A; 1984 Art. 17
37	1972 Art. 27(1)-(4)
38	1972 Art. 28(1), (3)-(6); 1984 Art. 24; 1984F Arts. 7, 9, Sch. 3
39	1972 Art. 29
40	1972 Art. 30; Statutory Rules (N.I.) Order 1979 (NI 12) Sch. 4 para. 13
41	1972 Art. 31; 1984F Arts. 7, 9, Sch. 3
42	1972 Art. 32; 1984 Sch. 8 para. 12
43	1972 Art. 33
44	1972 Art. 34
45	1972 Art. 35; 1984 Art. 18(1)
46	1972 Art. 36; 1984 Sch. 8 para. 13
47	1972 Art. 37
48	1972 Art. 38
49	1972 Art. 38A; 1984 Art. 25
50	1972 Art. 39; 1978 Art. 6; 1980 Art. 7
51	1972 Art. 40; 1978 Art. 6; 1980 Art. 7; 1984 Sch. 8 para. 15
52	1972 Art. 41; 1976 Art. 5; 1984U Sch. 1

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Provision of Order	Derivation
53	1972 Art. 42; 1984 Art. 26
54	1972 Art. 42A; 1984 Art. 26
55	1972 Art. 43; 1984 Sch. 8 para. 16; 1984U Sch. 1
56(1)	1972 Art. 44(1); 1984 Sch. 8 para. 17
(2)	1984 Art. 9(2)
(3)	1984 Art. 14(2)
(4)–(6)	1972 Art. 44(2)–(4); 1980 Art. 4
57	1972 Art. 45; 1980 Art. 8; 1984 Art. 14(3), Sch. 8 para. 18
58	1972 Art. 46; 1984 Art. 27
59	1972 Art. 47; 1984 Art. 27
60	1972 Art. 48; 1976 Art. 7
61	1972 Art. 49; 1984 Sch. 8 para. 19
62	1972 Art. 50; 1984 Art. 19; 1984F Art. 7, Sch. 3
63	1972 Art. 51; 1984 Sch. 8 para. 20
64	1972 Art. 52; 1984F Arts. 6, 9
65	1972 Art. 53; 1976 Art. 8(1); 1984 Art. 16(3)
66	1972 Art. 55; 1984 Art. 28
67	1972 Art. 55A; 1984 Art. 28
68	1972 Art. 56(1)
69	1972 Art. 57; 1980 Art. 9
70	1972 Art. 58; 1978 Art. 8(3)
71	1972 Art. 59; 1976 Art. 9; 1978 Art. 8(4)
72	1972 Art. 60; 1984 Art. 13(2), Sch. 8 para. 22
73	1972 Art. 61
74	1972 Art. 62; 1984 Sch. 8 para. 23
75	1972 Art. 63
76	1972 Art. 64
77	1972 Art. 65
78	1972 Art. 66
79	1972 Art. 67; 1984 Art. 29
80	1972 Art. 68; 1976 Sch. para. 5
81	1972 Art. 69
82	1972 Art. 70
83	1972 Art. 71(2)–(7); 1978 Sch. 1 para. 4; 1984 Sch. 8 para. 24
84	1972 Art. 71A; 1978 Art. 9; 1984 Sch. 8 para. 25
85	1972 Art. 74; 1984F Art. 6
86	1972 Art. 75
87	1972 Art. 76; 1976 Sch. para. 6
88	1972 Art. 77; 1984 Sch. 8 para. 26
89	1972 Art. 78; Rent (N.I.) Order 1978 (NI 20) Sch. 8 para. 8; Magistrates' Courts (N.I.) Order 1981 (NI 26) Sch. 6 para. 131

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Provision of Order	Derivation
90	1972 Art. 79; Rent (N.I.) Order 1978 (NI 20) Sch. 8 para. 8; Magistrates' Courts (N.I.) Order 1981 (NI 26) Sch. 6 para. 131
91	1972 Art. 80
92	1972 Art. 81; Financial Provisions (N.I.) Order 1978 (NI 11) Art. 11
93	1972 Art. 81A; 1976 Art. 11
94	1972 Art. 83; 1984F Art. 8
95	1972 Art. 84; 1976 Sch. para. 7; 1978 Sch. 1 para. 5; 1984 Sch. 8 para. 27
96	1972 Art. 85
97	1972 Art. 86
98	1972 Art. 87
99	1972 Art. 88
100	1972 Art. 89; 1984 Sch. 8 para. 28
101	1972 Art. 90; Statutory Rules (N.I.) Order 1979 (NI 12) Sch. 4 para. 13; 1984 Sch. 8 para. 29
102	1972 Art. 91; 1984 Sch. 8 para. 30
103	1972 Art. 92; 1984 Sch. 8 para. 31; 1984U Sch. 1
104	1972 Art. 93; 1973 Sch. 5 para. 3
105	1972 Art. 94(3)–(15); 1984F Art. 7, Sch. 3
106	1972 Art. 95; 1978 Art. 10; 1984 Art. 13(3), Sch. 8 paras. 6, 32, 33
107	1972 Art. 96(3), (4)
108	1972 Art. 98
109	1972 Art. 99
110	1972 Art. 100
111	1972 Art. 101
112	1972 Art. 102
113	1972 Art. 103
114	1972 Art. 104(1)
115	1972 Art. 105; 1976 Art. 12; 1984 Arts. 13(4), 14(4), 30(2), Sch. 8 paras. 34–36
116	1972 Art. 106(1)–(3), (5), (6); 1976 Art. 13; 1978 Art. 11; 1984 Art. 13(5), Sch. 8 paras. 6, 37
117	1972 Art. 106A; 1984 Art. 30(1)
118	1984 Art. 12
119	1972 Art. 107; 1978 Art. 12(1); 1984 Sch. 8 para. 38
120	1972 Art. 108
121	1972 Art. 109; 1984 Sch. 7
122	1972 Art. 110
123	1972 Art. 112(1), (2)
124	1972 Art. 113; 1984 Sch. 7

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Provision of Order	Derivation
125	1972 Art. 114; 1973 Sch. 5 para. 3; 1984 Sch. 7
126	1972 Art. 115; 1984 Sch. 7
127	1972 Art. 116
128	1972 Art. 117
129	1972 Art. 118; 1984F Art. 7, Sch. 3
130	1972 Art. 119
131	1972 Art. 120
132	1972 Art. 122
133	1972 Art. 124
134	1972 Art. 125
135	—
Sch. 1	1972 Sch. 1; 1984 SR 121
Sch. 2	1972 Sch. 2; Local Government (Postponement of Elections and Reorganisation) (NI) Order 1972 (NI 21) Sch. 1; 1976 Sch. para. 8; 1978 Arts. 3(2), 13(2); 1984 Art. 31
Sch. 3	1973 Sch. 3; 1976 Sch. para. 9; 1978 Sch. 1 para. 5; 1984 Art. 32
Sch. 4	1972 Sch. 4; 1984 Sch. 1
Sch. 5	1972 Sch. 5; 1984 Art. 4(2), Sch. 2, Sch. 8 para. 39
Sch. 6	1972 Sch. 6; 1984 Sch. 3
Sch. 7	1972 Sch. 6A; 1984 Sch. 4
Sch. 8	1972 Sch. 6B; 1984 Sch. 5
Sch. 9	1972 Sch. 7
Sch. 10	1984 Arts. 8, 9(1), (3), 10, 11
Sch. 11	1972 Sch. 7A; 1984 Sch. 6
Sch. 12	1972 Sch. 8; 1984F Art. 7, Sch. 3
Sch. 13	1972 Sch. 9; 1984 Art. 18; 1984F Arts. 7, 9, Sch. 3
Sch. 14	1972 Sch. 10; 1976 Art. 8(3)–(4); 1978 Sch. 1 para. 6; 1984 Art. 33, Sch. 8 para. 40
Sch. 15	1972 Sch. 11; 1978 Art. 12(2)–(3); 1984 Sch. 8 paras. 41, 42
Sch. 16	1972 Sch. 12; 1984 Sch. 8 para. 43
Sch. 17	1972 Sch. 13; 1984 Sch. 7
Sch. 18	1972 Arts. 104(2), 121, Sch. 15; 1984 Art. 18(3), Sch. 8 Part II
Sch. 19	1976 Art. 13(2); 1984 Sch. 9 paras. 4, 5, 8, 9
Sch. 20	—

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