
STATUTORY INSTRUMENTS

1989 No. 2406

The Education Reform(Northern Ireland) Order 1989

PART VII

FURTHER AND HIGHER EDUCATION

Miscellaneous

Supply of goods and services through institutions of further education

119.—(1) The governing body of an institution of further education which has a delegated budget may—

- (a) make available the facilities of the institution to any other institution, school, body or person and, subject to paragraphs (3) and (6), make charges for any facilities made available under this sub-paragraph;
- (b) supply goods and services through the institution to any other institution, school, body or person and, subject to paragraphs (4) to (6), make charges for any goods and services supplied under this sub-paragraph.

(2) A board may—

- (a) make available the facilities of an institution of further education under its management which does not have a delegated budget to any school, institution, body or person and, subject to paragraphs (3) and (6), make charges for any facilities made available under this sub-paragraph;
- (b) supply goods and services through such an institution to any school, institution, body or person and, subject to paragraphs (4) to (6), make charges for any goods and services supplied under this sub-paragraph.

(3) Charges for facilities made available under paragraph (1)(a) or (2)(a)—

- (a) shall not be made in such circumstances or for such facilities as may be prescribed;
- (b) shall not for any prescribed facility exceed such amount as may be prescribed,

but shall otherwise be of such amounts and be made for such facilities as the body making the charges may determine.

(4) Charges for goods and services supplied under paragraph (1)(b) or (2)(b)—

- (a) shall, subject to paragraph (5), not be less than the open market value of the goods and services supplied;
- (b) shall otherwise be of such amounts as the body making the charges may determine.

(5) Paragraph (4)(a) does not apply where the goods are produced or the goods or services are supplied in the normal course of any educational activities.

(6) Nothing in paragraphs (1) to (5) authorises—

- (a) the making of any charge which is prohibited or regulated by any provision of Chapter II of Part VIII;
 - (b) the carrying on through an institution of further education of any commercial activities which are detrimental to the provision of further or higher education at the institution.
- (7) The articles of government of every institution of further education shall provide—
- (a) for the use of the institution’s premises to be under the control of the governing body of the institution at all times except, in the case of an institution which does not have a delegated budget, to the extent necessary for the exercise by the board of its powers under paragraph (2); and
 - (b) for the governing body to exercise control subject to any direction given to it by the board.
- (8) For the purposes of this Article—
- (a) references to the facilities of an institution of further education are references to the equipment, premises or other property of that institution;
 - (b) educational activities are—
 - (i) the provision of further and higher education;
 - (ii) the carrying out of research;
 - (iii) any activity incidental or ancillary to any activity mentioned in head (i) or (ii);
 - (c) goods are supplied through an institution of further education if they are—
 - (i) produced in the course of its educational activities;
 - (ii) produced by the use of its facilities and the expertise of persons employed at it in the fields in which they are so employed; or
 - (iii) derived from ideas of a person employed at it, or of one of its students, arising out of its educational activities;
 - (d) services are supplied through an institution of further education if they are—
 - (i) provided by making available the expertise of persons employed at it in the fields in which they are so employed;
 - (ii) supplied in the course of its educational activities; or
 - (iii) derived from ideas such as are mentioned in sub-paragraph (c)(iii);
 - (e) the open market value of goods or services shall be taken to be the amount of the consideration in money that would be payable for the supply of those goods or services by a person standing in no such relationship with any person as would affect that consideration.