
STATUTORY INSTRUMENTS

1989 No. 2406

The Education Reform(Northern Ireland) Order 1989

PART VIII

SCHOOLS—GENERAL PROVISIONS

CHAPTER II

CHARGES IN GRANT-AIDED SCHOOLS

Application of Articles 128 to 131

127.—(1) Subject to paragraphs (2) to (5), Articles 128 to 131 apply to all grant-aided schools.

(2) Those Articles do not apply to a voluntary grammar school if, on the appointed day, there is no agreement in force under Schedule 6 to the principal Order between the trustees or Board of Governors of the school and the Department.

(3) The application of those Articles to a voluntary grammar school other than a school mentioned in paragraph (2) is subject to Article 132.

(4) Those Articles do not apply to a grammar school in relation to an excepted pupil, that is to say—

- (a) any pupil who is not resident in Northern Ireland;
- (b) any pupil whose parents are not nationals of a member State;
- (c) in the case of a grammar school having a preparatory department, any pupil in that department of the school;
- (d) any pupil who—
 - (i) was admitted to the grammar school or, in the case of a grammar school having a preparatory department, admitted to the secondary department of the grammar school before the appointed day; and
 - (ii) on that day was not a non-fee-paying pupil, as defined by regulation 5 of the Grammar School Pupils (Admissions, Grants and Allowances) Regulations (Northern Ireland) 1978⁽¹⁾.

(5) The board for the area in which a grammar school is situated may, in accordance with arrangements approved by the Department, direct that a pupil registered at the school who is an excepted pupil solely by reason of falling within paragraph (4)(d) shall cease to be an excepted pupil; and, accordingly, Articles 128 to 131 shall apply in relation to any pupil in respect of whom such a direction is given.

(6) In paragraph (4)(b) “national”, in relation to a member State, means the same as in the Community Treaties, but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.

⁽¹⁾ 1954 c. 33 (N.I.)

Prohibition of charges, etc., in certain grant-aided schools

128.—(1) No charge shall be made in respect of admission to any grant-aided school to which this Article applies.

(2) Subject to paragraph (3) and Article 129, no charge shall be made in respect of the education provided for registered pupils at any such school during school hours.

(3) Paragraph (2) shall not apply in relation to individual tuition in playing any musical instrument.

(4) No charge shall be made in respect of education provided for a registered pupil at any grant-aided school to which this Article applies where the education is education to which paragraph (2) does not apply if it is—

(a) required as part of any syllabus for an approved public examination which is a syllabus for which the pupil is being prepared at the school; or

(b) provided in pursuance of any of the duties imposed by Article 11(1)(a) or (b).

(5) No charge shall be made in respect of the entry of a registered pupil at any grant-aided school to which this Article applies for any approved public examination in any syllabus for that examination for which the pupil has been prepared at the school.

(6) Neither the parent of any such pupil nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—

(a) education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or

(b) any syllabus for an approved public examination which is a syllabus for which the pupil has been prepared at the school.

(7) No charge shall be made in respect of transport provided for a registered pupil at any such school where the transport is either—

(a) incidental to education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or

(b) provided for the purpose of enabling him to meet any examination requirement for any syllabus for an approved public examination which is a syllabus for which he has been prepared at the school.

(8) For the purposes of paragraph (7)(a) transport is incidental to education provided for registered pupils at any such school if it is provided for the purpose of carrying such pupils—

(a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises; or

(b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the Board of Governors of the school or the board, from or to the school premises or any other such place.

(9) Nothing in this Article shall be read as prohibiting the making of a charge in respect of board and lodging provided for a registered pupil at any such school on a residential trip.

(10) In this Chapter “residential trip” means any trip—

(a) which is arranged for registered pupils at any grant-aided school to which this Article applies by or on behalf of the managers of the school; and

(b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.

(11) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a syllabus for any approved public examination if any part of the education provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

Provision for cases where education is provided partly during and partly outside school hours

129.—(1) Where a period allowed for any educational activity at a school falls partly during school hours and partly outside school hours—

- (a) if fifty per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
- (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.

(2) In this Article “school travelling time” means time spent on travel during school hours; and for the purposes of paragraph (1)(a) such time is connected school travelling time in relation to any educational activity if it is spent by the pupils taking part in the activity in getting to or from the place where the activity takes place.

(3) Where any education provided at a school is provided on a residential trip—

- (a) if the number of school sessions taken up by the trip is equal to or greater than fifty per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
- (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.

(4) In this Article a “half day” means any period of twelve hours ending with noon or midnight on any day.

(5) Where fifty per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated for the purposes of paragraph (3) as spent on the trip.

(6) For the purposes of that paragraph, a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip on which education is provided for registered pupils at the school if the time spent on the trip occupies fifty per cent. or more of the time allowed for that session at the school.

Permitted charges

130.—(1) Subject to paragraph (2), a charge may be made in respect of—

- (a) education or transport provided for a registered pupil at any grant-aided school to which this Article applies other than education or transport in respect of which by virtue of Article 128 above or Article 52(1) of the principal Order no charge may be made;
- (b) the entry of any such pupil for a public examination in any syllabus for that examination otherwise than in circumstances in which by virtue of Article 128(5) no charge may be made; and
- (c) board and lodging provided for any such pupil on a residential trip.

(2) A charge may not be made—

- (a) by virtue of paragraph (1)(a) in respect of the provision for a pupil of education or transport; or

- (b) by virtue of paragraph (1)(b) in respect of the entry of a pupil for an examination in any syllabus for that examination,

unless the education or transport is provided or the pupil is entered for the examination in that syllabus by agreement with his parent; and any education, transport or examination entry in respect of which a charge may be made by virtue of either of those provisions is referred to below in this Article as an “optional extra”.

(3) The following provisions of this Article apply in relation to any charge permitted under this Article and any such charge is referred to in those provisions as a regulated charge.

(4) The amount of any regulated charge shall be payable by the parent of the pupil concerned.

(5) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.

(6) Without prejudice to the generality of paragraph (5), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—

- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra;
- (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra; or
- (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.

(7) Subject to paragraph (8), the cost of the provision of an optional extra shall not be taken as including any costs attributable to the provision of teaching staff other than staff engaged as mentioned in paragraph (6)(c).

(8) Where the optional extra in question consists of tuition in playing any musical instrument the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.

(9) Where charging is permitted under this Article and the charge would be a regulated charge, the question of whether any charge in respect of the optional extra or the board and lodging should be made, and the amount of any charge to be made, shall be determined—

- (a) in a case where the cost of the provision of the optional extra or board and lodging is met by, or from funds at the disposal of, the Board of Governors, by the Board of Governors;
- (b) in any other case, by the board.

(10) The whole or any part of the amount of any charge the board determines under paragraph (9) (b) to make—

- (a) shall, if the Board of Governors so determines, be met by, or from funds at the disposal of, the Board of Governors; and
- (b) shall not, to the extent that it is so met, be payable by the parent of the pupil concerned.

Charges and remissions policies

131.—(1) Every Board of Governors of a grant-aided school to which this Article applies and every board shall determine and keep under review a policy with respect to the provision of, and the classes or descriptions of case in which it proposes to make charges for, any optional extra or board and lodging in respect of which charges are permitted by Article 130.

(2) No such Board of Governors or board shall make such a charge unless it has both—

- (a) determined a policy under paragraph (1) with respect to the making of such charges (its “charging policy”); and
- (b) determined a policy (its “remissions policy”)—

- (i) setting out any circumstances in which it proposes to remit (in whole or in part) any charge which would otherwise be payable to it in accordance with its charging policy; and
 - (ii) in the case of such a policy determined by the Board of Governors, setting out also any circumstances in which the Board of Governors proposes to meet (in whole or in part) any charge payable to the board in accordance with the board's charging policy for any optional extra or board and lodging provided for a registered pupil at the school.
- (3) Any remissions policy determined by the Board of Governors of a school or by a board shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which by virtue of Article 128 no charge may be made; and
 - (b) his parents are in receipt of income support or family credit in respect of any period wholly or partly comprised in the time spent on the trip.
- (4) Any such Board of Governors or board shall keep under review any remissions policy determined by it under this Article.
- (5) In this Article “optional extra” has the same meaning as in Article 130.

Capital charges in voluntary grammar schools to which Articles 128 to 131 apply

132. Nothing in Articles 128 to 131 shall prevent the Board of Governors of a voluntary grammar school to which those Articles apply from making a charge not exceeding such amount as may be prescribed in respect of any pupil registered at the school for the purpose of meeting expenditure incurred or to be incurred—

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

Charges in voluntary grammar schools to which Articles 128 to 131 do not apply

133.—(1) This Article applies to a voluntary grammar school to which, by virtue of Article 127(2), Articles 128 to 131 do not apply.

(2) The Board of Governors of such a school may, subject to regulations, make charges of such amounts as it may determine in respect of any pupil registered at the school for the purpose of meeting expenditure required to carry on the school.

(3) No charge shall be made in respect of the entry of a registered pupil at such a school for any approved public examination in any syllabus for that examination for which the pupil has been prepared at the school.

(4) Paragraphs (2) and (3) do not apply in relation to excepted pupils.

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

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

Charges in respect of excepted pupils

134.—(1) The Board of Governors of a grammar school in which an excepted pupil is registered may, subject to regulations, make charges of such amounts as it may determine in respect of that pupil.

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

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

Charges for board and lodging at boarding schools

135.—(1) Subject to the following provisions of this Article where any registered pupil at any grant-aided school is provided at the school with board and lodging at the expense of a board or the Board of Governors of the school, charges shall be payable in respect of the board and lodging by the parent of the pupil concerned to that board or Board of Governors.

(2) Where a board is satisfied with respect to any pupil who is ordinarily resident in its area that education suitable to his age, ability, aptitude and any special educational needs he may have cannot be provided for him otherwise than by the provision of board and lodging at a particular grant-aided school, the board shall—

- (a) where the school is under its management, remit the whole of the charges payable under this Article; and
- (b) where the school is not under its management, pay to the board or Board of Governors to whom the charges are payable under this Article, the whole of those charges.

(3) Where a board is satisfied that payment of the full charges payable under this Article would involve financial hardship to the parent of a pupil who is ordinarily resident in its area, the board—

- (a) in the case of charges payable to the board, shall remit so much of those charges as falls in accordance with paragraph (4) to be so remitted; and
- (b) in the case of charges payable to another board or to the Board of Governors of a school, shall pay so much of those charges as falls in accordance with that paragraph to be so paid.

(4) In the case of any such charges, the amount that falls to be remitted or paid by a board by virtue of paragraph (3)(a) or (b) is—

- (a) such part of those charges as the board considers ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in that paragraph; or
- (b) if in its opinion such hardship cannot otherwise be avoided, the whole of those charges.

Obligation to enter pupils for approved public examinations

136.—(1) Subject to the following provisions of this Article, the Board of Governors of every grant-aided school shall secure that each registered pupil at the school is entered, at such time as it considers appropriate, for each approved public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.

(2) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination, or for any examination in any syllabus for that examination, if either—

- (a) the Board of Governors considers that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus and the parent of the pupil agrees that he should not be so entered; or

(b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus.

(3) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination in any syllabus for that examination if the Board of Governors has secured that pupil's entry for another approved public examination in a corresponding syllabus.

(4) For the purposes of paragraph (3), a syllabus for any such examination shall be regarded as corresponding to a syllabus for another such examination if the same course of study is provided at the school concerned in preparation for both syllabuses.

(5) As soon as practicable after determining whether or not to secure the entry of any pupil for an approved public examination in any syllabus for which he is being prepared at the school the Board of Governors of a grant-aided school shall notify the parent of the pupil in writing of its determination in relation to each such syllabus.

General and supplementary provisions relating to charges

137.—(1) Nothing in the provisions of this Chapter relating to charges shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the Board of Governors of any grant-aided school or any board for voluntary contributions for the benefit of the school or any school activities.

(2) Any request or invitation made by or on behalf of any such Board of Governors or board for contributions for the benefit of any school or school activities shall not be regarded for the purposes of paragraph (1) as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—

- (a) that there is no obligation to make any contribution; and
- (b) that registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.

(3) Nothing in Article 128(6) shall prevent the parent of a registered pupil at a grant-aided school to which this Article applies from being required to pay for or supply any materials for use for the purposes of the production in the course of the provision of education for the pupil at the school of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.

(4) Nothing in this Chapter relating to charges with respect to a registered pupil at a grant-aided school shall be read as relating to—

- (a) charges made by persons other than the Board of Governors or the board; or
- (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

(5) The Department may make regulations requiring, in relation to every grant-aided school to which Articles 128 to 131 apply, the board, the Board of Governors or the principal to make available either generally or to prescribed persons, in such form and manner and at such time as may be prescribed—

- (a) such information relevant for the purposes of this Chapter as to the school hours at the school; and
- (b) such information as to the policies determined under Article 131 which apply in relation to the school,

as may be prescribed.

(6) Any sum payable under Article 130 or 132 to 135 by the parent of any registered pupil at a grant-aided school shall be recoverable summarily as a civil debt.

Interpretation of Chapter II

138.—(1) In this Chapter—

- (a) “equipment” does not include clothing;
- (b) “excepted pupil” has the meaning assigned to it by Article 127(4);
- (c) references to a public examination (including an approved public examination) are references to such an examination as it applies in relation to persons entered for any syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment for the purposes of determining the achievements of persons entered for that examination takes place;
- (d) references to an examination requirement for a syllabus for any such examination are references to any requirements a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that syllabus; and
- (e) “residential trip” has the meaning given by Article 128(10).

(2) For the purposes of paragraph (1) an assessment for the purposes of determining the achievements of persons entered for any examination is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any syllabus in that examination who has met the examination requirements for that syllabus whether that person has passed or failed and, if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

(3) In its application to—

- (a) a voluntary school referred to in Article 11(8) of the principal Order, this Chapter shall have effect with the substitution for references to the Board of Governors of references to the person approved in relation to the school by the Department under the said Article 11(8);
- (b) a technical secondary school conducted in association with an institution of further education, this Chapter shall have effect with the substitution for references to the Board of Governors of references to the governing body of the institution.