
STATUTORY INSTRUMENTS

1993 No. 2810

The Education and Libraries (Northern Ireland) Order 1993

PART IV

MISCELLANEOUS

Miscellaneous amendments to the 1986 Order

Provision by boards of education otherwise than at a school

36. In Article 6 of the 1986 Order—

- (a) in paragraph (3) (power of board, with the approval of the Department, to arrange for the provision of education otherwise than at a school) for the words “may, with the approval of the Department,” there shall be substituted the word “shall”; and
- (b) in paragraph (4) (power of board, with the approval of the Department, to arrange for special educational provision to be made otherwise than at a school) the words “with the approval of the Department and” shall cease to have effect.

Limitation on membership of Boards of Governors

37. For Article 12 of the 1986 Order there shall be substituted the following Article—

“Limitation on membership of Boards of Governors

12. Except with the approval of the Department, no person shall at the same time hold office as a member of more than three Boards of Governors of grant-aided schools.”.

Standard of school premises

38. For Article 18 of the 1986 Order there shall be substituted the following Article—

“Standard of school premises

18.—(1) The Department shall issue directions specifying the standards to which premises of grant-aided schools shall conform.

(2) Subject to paragraph (3), it shall be the duty of—

- (a) the board responsible for the management of a controlled school;
- (b) the Board of Governors of a grant-maintained integrated school; and
- (c) the trustees of a voluntary school,

to secure that the premises of the school conform to the standards specified under this Article for schools of the description to which the school belongs.

(3) Where the Department is satisfied that it would be unreasonable to expect the premises of a particular school to conform to the standards specified under this Article, it may exempt the school premises from conforming with such standards to such extent and for such time as it thinks appropriate.

(4) Directions given under this Article by the Department—

(a) shall be given in writing; and

(b) shall be published by the Department in such manner as it thinks fit.”.

Appeals against expulsion of pupils

39. For Article 49 of the 1986 Order there shall be substituted the following Article—

“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 Council for Catholic Maintained Schools shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from Catholic maintained schools.

(3) The Board of Governors of—

(a) a voluntary school (other than a Catholic maintained school);

(b) a grant-maintained integrated school,

shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school.

(4) A scheme prepared under paragraph (1), (2) or (3) shall provide that a pupil may be expelled from a school only by the expelling authority and shall include provision for such other matters as may be prescribed.

(5) In this Article “the expelling authority” means—

(a) in relation to a pupil in a controlled school, the board responsible for the management of the school; and

(b) in relation to a pupil in any other grant-aided school, the Board of Governors of the school.

(6) Every board shall make arrangements for enabling—

(a) the parent of a pupil at a grant-aided school situated in the area of the board; or

(b) if the pupil has attained the age of 18 years, the pupil himself,

to appeal against any decision of an expelling authority to expel the pupil from the school.

(7) Any appeal by virtue of paragraph (6) shall be to an appeal tribunal constituted in accordance with regulations under paragraph (10).

(8) On the hearing of an appeal under this Article the appeal tribunal may—

(a) allow the appeal and direct that the pupil be re-admitted to the school; or

(b) dismiss the appeal.

(9) It shall be the duty of the expelling authority and, in the case of a pupil expelled from a controlled school, the Board of Governors of the school to comply with any direction given under paragraph (8)(a).

(10) The Department shall by regulations provide for the constitution and procedure of appeal tribunals and, without prejudice to the generality of the foregoing, such regulations—

- (a) shall provide for an appeal tribunal to consist of a prescribed number of persons selected in the prescribed manner from a panel of persons appointed by the board to act as members of appeal tribunals under this Article;
 - (b) may provide for disqualifying prescribed persons or descriptions of person for membership of an appeal tribunal;
 - (c) may contain provision requiring an appeal tribunal to hear and determine an appeal within such period as may be specified in, or determined in accordance with, the regulations;
 - (d) may provide for two or more appeal tribunals to sit at the same time;
 - (e) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the board.
- (11) An appeal tribunal shall not be regarded as a committee of the board.
- (12) Article 79(1) shall apply to members of an appeal tribunal in like manner as it applies to members of a board.”.

Work experience for school children

40. In Article 63(2) of the 1986 Order (employment of children for purposes of work experience) for the words from “only from the following dates—” to the end there shall be substituted the words “only at a time on or after the date on which the summer term begins at his school in the year immediately preceding the year in which he ceases to be of compulsory school age”.

Supply teachers

- 41.** The following provisions shall cease to have effect, namely—
- (a) Article 65(2)(b) of the 1986 Order (power of board to employ supply teachers); and
 - (b) Article 143(1)(b) of the 1989 Order (power of Council for Catholic Maintained Schools to employ supply teachers).

Salaries and other terms and conditions of employment of teachers

42.—(1) In the 1986 Order for Article 69 there shall be substituted the following Article—

“Salaries and other terms and conditions of employment of teachers

- 69.—(1)** Except as provided by paragraph (3)—
- (a) the rates of salaries and the allowances which are to be paid to teachers to whom this Article applies; and
 - (b) the other terms and conditions of employment of such teachers,
- shall be determined by the Department.
- (2) This Article applies to—
- (a) teachers employed in grant-aided schools;
 - (b) teachers employed in institutions of further education; and
 - (c) peripatetic teachers.
- (3) In such circumstances and subject to such conditions as the Department may direct, the rates of salaries and the allowances which are to be paid to teachers of a class or description specified by the Department in the directions shall be determined by a body or person so specified.

- (4) Before giving any directions under paragraph (3), the Department shall consult—
- (a) such representatives of employing authorities and such representatives of teachers as appear to it to be concerned; and
 - (b) any other person with whom consultation appears to it to be desirable.
- (5) In paragraph (4) “employing authority” means—
- (a) in relation to teachers employed in controlled schools and institutions of further education, the board by which they are employed;
 - (b) in relation to teachers employed by the Council for Catholic Maintained Schools, that Council;
 - (c) in relation to teachers employed in a voluntary school (other than a Catholic maintained school), the Board of Governors of that school;
 - (d) in relation to teachers employed in a grant-maintained integrated school, the Board of Governors of the school;
 - (e) in relation to peripatetic teachers, the board by which they are employed.
- (6) A determination under paragraph (1) or (3)—
- (a) shall be made in writing;
 - (b) shall be published in such manner as the Department or, as the case may be, the body or person making the determination thinks fit;
 - (c) may contain such transitional and supplementary provisions as the Department or, as the case may be, that body or person thinks fit; and
 - (d) may have effect from a date earlier than the date on which it is made.
- (7) Where any question arises as to the rate of salary or allowance to be paid under this Article to a teacher—
- (a) where that rate of salary or allowance falls in accordance with directions under paragraph (3) to be determined by a body or person specified in those directions, the decision of that body or person shall, except on a question of law, be final;
 - (b) in any other case, the decision of the Department shall, except on a question of law, be final.
- (8) The terms and conditions upon which a teacher (other than a temporary or part-time teacher) is employed 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.”
- (2) In Article 70 of the 1986 Order the following provisions (which relate to terms and conditions of employment of teachers and are superseded by paragraph (1)) shall cease to have effect, namely—
- (a) paragraph (1)(b);
 - (b) paragraph (3).
- (3) Subject to paragraph (4), any regulations which—
- (a) were made under Article 69 or 70(1)(b) of the 1986 Order; and
 - (b) were in operation immediately before the coming into operation of this Article,
- shall, in so far as they relate to teachers to whom Article 69 of the 1986 Order (as substituted by paragraph (1)) applies, have effect as from the coming into operation of this Article as if they were determinations made by the Department under Article 69(1) of the 1986 Order (as so substituted).
- (4) Any provisions included in any regulations mentioned in paragraph (3) by virtue of Article 69(3) of the 1986 Order shall, in so far as they relate to teachers so mentioned, have effect as from

the coming into operation of this Article as if they were directions given by the Department under Article 69(3) of the 1986 Order (as substituted by paragraph (1)).

(5) Until the day appointed for the coming into operation of Article 41, Article 69 of the 1986 Order (as substituted by paragraph (1)) shall apply to supply teachers as it applies to the teachers listed in paragraph (2) of that Article; and for the purposes of paragraph (4) of that Article as so applying the “employing authority” in relation to supply teachers means the body by which they are employed.

Charges for library services

43.—(1) For Article 77 of the 1986 Order there shall be substituted the following Article—

“Charges for library services

77.—(1) Except as provided by this Article, no charge shall be made by a board for library services provided by it.

(2) A board may make a charge—

- (a) subject to paragraph (3), for lending library material or library apparatus;
- (b) for reserving for any person library material or library apparatus (whether that material or apparatus is for the time being held by the board or is to be obtained from elsewhere and whether for the purpose of lending the material or apparatus to that person or making it available for his use on library premises) and for notifying that person that that material or apparatus has become available or is not available for borrowing or use by him;
- (c) in respect of the failure to return any borrowed library material or library apparatus before the end of the period for which it is lent;
- (d) subject to paragraph (4), for making library apparatus available for use on library premises;
- (e) in respect of library apparatus, library material and any other equipment or thing used in providing the library service which is lost, damaged or destroyed by, or while on loan to, any person;
- (f) subject to paragraph (4), for assisting or instructing a person in the use of a computer;
- (g) for researching or collating information for and at the request of a person;
- (h) for supplying catalogues, indexes or similar articles where the articles become the property of the person to whom they are supplied;
- (i) for supplying library material which has been researched, collated, produced or copied by the board where the material becomes the property of the person to whom it is supplied;
- (j) for supplying copies of library material obtained from another library not maintained by the board or from any other body or person, where the copies become the property of the person to whom they are supplied;
- (k) for providing, or procuring the provision of, library material to a person who does not wish to collect it or have it collected and for notifying a person who has requested provision other than by collection that the library material is not available;
- (l) for providing a room or cubicle on library premises for the purpose of working or studying to which only the person paying the charge is for the time being permitted access;

- (m) subject to paragraph (5), for making library facilities available otherwise than on library premises; and
 - (n) subject to paragraphs (3) and (4), for making available to any person library facilities which go beyond those ordinarily provided by the board as part of the library service.
- (3) No charge shall be made under sub-paragraph (a) or (n) of paragraph (2) for lending any written material to any person where—
- (a) it is the duty of the board under Article 73(1) to provide a library service to that person;
 - (b) the material is lent in the course of providing such a service to that person on any library premises;
 - (c) the material is lent in a form in which it is readable without the use of any electronic or other apparatus; and
 - (d) that person is not a person who has required any such apparatus to be used, or made available to him, for putting the material into such a form in order that he may borrow it.
- (4) No charge shall be made under sub-paragraph (d), (f) or (n) of paragraph (2) for making facilities available for any person—
- (a) to read the whole or any part of any of the written materials for the time being held by the board—
 - (i) in a form in which they are readable without the use of any electronic or other apparatus; or
 - (ii) in microform; or
 - (b) to consult such catalogues, indexes or similar articles as are maintained, in any form whatever, exclusively for the purposes of that board's library service,
- on library premises.
- (5) No charge shall be made under sub-paragraph (m) of paragraph (2) to individual users of facilities made available as mentioned in that sub-paragraph where—
- (a) the facilities are made available at a school, residential home, hospital, prison, club or like institution; and
 - (b) the person who has arranged with the board for the facilities to be made available at such institution is charged under that sub-paragraph.
- (6) The Department may, by order subject to affirmative resolution, amend paragraphs (2) to (5).
- (7) Subject to paragraph (8), any charge made under this Article shall be of such amount as the board may determine and, without prejudice to the generality of the foregoing, the board may—
- (a) make different provision for different cases including different provision in relation to different persons, circumstances or localities; and
 - (b) make charges in respect of each use of the library facilities made available by it, or charge an annual subscription or a deposit in respect of all or some of such facilities.
- (8) A board shall not make a charge under this Article to a person living or working or undertaking a course of study outside the area of the board if it would not be entitled in the circumstances to make the same charge to a person living or working or undertaking a course of study within that area.
- (9) A board which makes a charge under this Article shall display in a conspicuous place within each library premises of the board a notice specifying the library facilities made

available by the board for which it makes a charge and, in the case of each such facility, the amount of the charge or the basis on which the charge will be calculated.

(10) The provisions of Part I of the 1988 Act (copyright) relating to the rental of copies of sound recordings, films and computer programs apply to any lending by a board of copies of such works, whether or not a charge is made for that facility.

(11) In this Article—

“the 1988 Act” means the Copyright, Designs and Patents Act 1988(1);

“computer” means any device for storing and processing information;

“copying” and “copies” shall be construed in accordance with section 17 of the 1988 Act;

“library apparatus” means electronic or other apparatus intended for use with library material;

“residential home” means a residential care home or nursing home registered under the Registered Homes (Northern Ireland) Order 1992(2) or any residential accommodation provided by a Health and Social Services Board or a Health and Social Services Trust;

“written material” means—

(a) any book, journal, pamphlet or other similar article; or

(b) any reprographic copy (within the meaning of the 1988 Act) of any article falling within paragraph (a) or any other reproduction of such an article made by any means whatsoever.”.

(2) In Part VII of the 1986 Order after Article 78 there shall be inserted the following Article—

“Interpretation of Part VII

78A. In this Part—

“library material” means—

(a) words, figures, images, sounds or data recorded in or on any medium;

(b) toys; and

(c) educational artefacts;

“library premises” means—

(a) any premises which are occupied by a board and are premises where library facilities are made available by the board, in the course of the provision of a library service, to members of the public;

(b) any vehicle which is used by a board for the purpose of providing such a service and is a vehicle in which facilities are so made available.”.

Insurance by boards

44. Article 86 of the 1986 Order (insurance by boards) shall be renumbered as paragraph (1) of that Article and after that paragraph there shall be added the following paragraphs—

“(2) A board may insure, or meet the cost of insuring, against such risks in connection with any of the functions to which this paragraph applies as the board considers necessary.

(3) Paragraph (2) applies to the functions of—

(1) 1988 c. 48
(2) 1992 NI 20

- (a) the Board of Governors of a grant-aided school, other than a voluntary grammar school or a grant-maintained integrated school; and
 - (b) the governing body of an institution of further education,
- and so applies whether or not those functions are carried out on behalf of, and in the name of, the board.”.