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STATUTORY INSTRUMENTS

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**1997 No. 866**

**The Education (Northern Ireland) Order 1997**

**PART IV**

**MISCELLANEOUS**

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

**23.**—(1) For Article 52 of the 1986 Order there shall be substituted—

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

**52.**—(1) A board shall make such arrangements for the provision of transport and otherwise as it considers necessary or as the Department may direct for the purpose of facilitating—

- (a) the attendance of pupils at grant-aided schools; and
- (b) the attendance of relevant pupils at institutions of further education;

and any transport provided under such arrangements shall be provided free of charge.

(2) Arrangements made by a board under paragraph (1) (other than arrangements made in pursuance of a direction of the Department) shall be subject to the approval of the Department.

(3) A board may, in accordance with arrangements approved by the Department, provide transport for, or pay the whole or part of the reasonable travelling expenses of—

- (a) pupils attending grant-aided schools; and
- (b) relevant pupils attending institutions of further education,

for whom the board is not required to make provision under arrangements made under paragraph (1).

(4) In paragraphs (1) and (3) “relevant pupils” means pupils of a class or description specified by the Department for the purposes of this Article.

(5) Any arrangements under paragraph (3) shall include provision—

- (a) for the board to make charges (payable by the parents of the pupils concerned) in respect of transport provided under that paragraph; and
- (b) as to the cases in which, and the extent to which, such charges are to be remitted by the board.

(6) 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.”.

(2) In Schedule 13 to the 1986 Order in paragraph 3(2) for head (b) there shall be substituted—

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

- (ii) that the child is one for whom the board is required to make provision under Article 52(1), but no suitable arrangements have been made by the board for his transport to and from school; and
- (iii) that no suitable arrangements have been made by the board for boarding accommodation for the child at or near the school or for enabling him to become a registered pupil at a school nearer to his home;” .

(3) In paragraph 3(6) of Schedule 13 to the 1986 Order for the words “who has not attained the age of eleven years” there shall be substituted the words “who is a registered pupil at a primary school”.

(4) In Article 130(1)(a) of the 1989 Order for the words from “other than” to the end there shall be substituted

“other than—

- (i) education or transport in respect of which by virtue of Article 128 no charge may be made; or
- (ii) transport provided by a board under Article 52 of the principal Order.” .

(5) In Article 137 of the 1989 Order after paragraph (4) there shall be inserted—

“(4A) Nothing in the provisions of this Chapter relating to charges applies in relation to charges made by a board under Article 52 of the principal Order.” .

#### **Nomination of members of Board of Governors of controlled secondary schools (other than grammar or integrated schools)**

**24.** In Schedule 4 to the 1986 Order, in paragraph 3 (membership of Board of Governors of controlled secondary school (other than grammar or integrated school))—

(a) in sub-paragraph (2) for head (a) substitute—

“(a) four shall be nominated by the relevant members of the Boards of Governors of contributory schools from amongst the relevant members of those Boards of Governors;” ;

(b) after sub-paragraph (2) there shall be inserted—

“(2A) In sub-paragraph (2)(a) “relevant members”, in relation to a Board of Governors, means the members nominated by transferors and superseded managers under paragraph 2(2)(a) or 5(1)(c).” .

#### **Financing of certain services to schools provided under approved contracts**

**25.—**(1) This Article applies to a school of a description set out in column 1 of the Table below, and in this Article “the relevant authority” in relation to each such school is the body indicated in column 2 of that Table.

**TABLE**

| <i>School</i>   | <i>Relevant authority</i>                       |
|---|---|
| 1. A controlled school.   | [ <sup>F1</sup> The Authority]<br><sup>F2</sup> |
|   | ....  |
| 2. A grant-maintained integrated school.  | The Board of Governors of the school.           |
| 3. A maintained school in relation to which an agreement under paragraph 1 of Schedule 5 to the 1986 Order is in force. | The trustees of the school.                     |

4. A voluntary grammar school in relation to      The trustees of the school.  
which an agreement under paragraph 1(1)(a) of  
Schedule 6 to the 1986 Order is in force.

(2) In this Article “an approved contract” means a contract between the relevant authority for a school to which this Article applies and another person ( “the contractor”)—

- (a) under which the contractor undertakes at his own cost—
  - (i) to provide or alter any premises of the school; and
  - (ii) to maintain, or provide other services in relation to, those premises over the term of the contract,in consideration for the payment by the relevant authority for the school of sums of money in instalments over the term of the contract; and
- (b) which has been approved by the Department for the purposes of this Article.

(3) The inclusion in a contract of matters other than those mentioned in sub-paragraph (a) of paragraph (2) does not prevent the contract falling within that sub-paragraph.

(4) In this Article references to the costs of a relevant authority on foot of an approved contract are references to<sup>F3</sup> all sums paid or payable by the relevant authority under the contract, whether so paid or payable during the term of the contract or on or after its termination].

(5) The Education Orders shall be amended as follows for the purpose of facilitating the making and carrying out of approved contracts and the meeting of the costs of certain relevant authorities on foot of such contracts.

(6) In Article 2 of the 1986 Order after paragraph (2C) there shall be inserted—

“(2D) In the Education Orders references to—

- (a) an approved contract;
- (b) the contractor, in relation to an approved contract;
- (c) the relevant authority, in relation to an approved contract; and
- (d) the costs of the relevant authority on foot of an approved contract,

shall be construed in accordance with Article 25 of the Education (Northern Ireland) Order 1997.

(2E) References in the Education Orders to the staff of or at a school or to persons employed at, in or about a school do not include references to persons employed by the contractor for the purposes of an approved contract.” .

(7) <sup>F4</sup> .....

(8) In Article 88(1A) of the 1986 Order (employment of non-teaching staff required in controlled and maintained schools) after the words “staff required” there shall be inserted “by a board”.

(9) In Article 60 of the 1989 Order (grants to voluntary grammar schools)—

- (a) after paragraph (1) there shall be inserted—

“(1A) The Department may make grants to the trustees of a voluntary grammar school of amounts equal to the costs of the trustees on foot of an approved contract.” ;
- (b) after paragraph (4) there shall be inserted—

“(4A) Expenditure under paragraph (1A) in any year shall be specified by the Department as an excluded head or item of expenditure.” .

(10) In Article 62 of the 1989 Order (provision of educational facilities and services) after paragraph (5) there shall be inserted—

“(5A) In paragraph (5)(a) the reference to the school premises does not include so much of the school premises as, in pursuance of an approved contract, is under the control of the contractor.” .

(11) In Article 77 of the 1989 Order (grants to grant-maintained integrated schools) in paragraph (10) for the words “The descriptions” there shall be substituted “Where school premises are provided or altered in pursuance of an approved contract, the costs of the Board of Governors on foot of that contract shall for the purposes of this Article be regarded as expenditure which is not of a capital nature; but, subject to that, the descriptions.”.

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|-----------|---|
| <b>F1</b> | Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 1(1)(a)</b> (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)                |
| <b>F2</b> | Words in art. 25(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 4</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)   |
| <b>F3</b> | 2003 NI 12  |
| <b>F4</b> | Art. 25(7) repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(h), 91(2), <b>Sch. 6 Pt. II</b> (with art. 91(3)); S.R. 2009/183, <b>art. 3(b)(e)</b> |

### **Appeal from Special Educational Needs Tribunal**

**26.** In Article 24 of the Education (Northern Ireland) Order 1996 (appeal from Special Educational Needs Tribunal) for the words from the beginning to “that person” there shall be substituted “Where a party to an appeal to the Tribunal is dissatisfied in point of law with a decision of the Tribunal, that party”.

**Changes to legislation:**

There are currently no known outstanding effects for the The Education (Northern Ireland) Order 1997, PART IV.