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STATUTORY INSTRUMENTS

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**2003 No. 424**

**The Education and Libraries (Northern Ireland) Order 2003**

**PART III**

**BOARDS: FINANCE AND THE DUTY OF BEST VALUE**

*The duty of best value*

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**13.**—(1) A board shall make arrangements for continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(2) For the purpose of deciding how to carry out its duty under paragraph (1), a board shall consult persons appearing to the board to be representative of persons who use, are likely to use, or otherwise have an interest in, services provided by the board in pursuance of its functions.

**Contracts: exclusion of non-commercial considerations**

**14.**—(1) The Department may by order provide, in relation to boards, for a specified matter to cease to be a non-commercial matter for the purposes of Article 20 of the [Education and Libraries \(Northern Ireland\) Order 1993 \(NI 12\)](#) (board contracts: exclusion of non-commercial considerations).

(2) An order under this Article may—

- (a) provide for a matter to cease to be a non-commercial matter for specified purposes or to a specified extent;
- (b) apply in relation to specified boards, functions or contracts;
- (c) amend a statutory provision;
- (d) include supplementary, incidental, consequential and transitional provisions

(3) In exercising a function regulated by Article 20 of the [Education and Libraries \(Northern Ireland\) Order 1993 \(NI 12\)](#) with reference to a matter which is the subject of an order under this Article a board shall have regard to any guidance issued by the Department.

(4) Before the Department—

- (a) makes an order under this Article; or
- (b) issues any guidance under paragraph (3),

it shall consult the other funding departments.

(5) No order shall be made under this Article unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

**Power to modify statutory provisions and confer new powers**

15.—(1) If the Department thinks that a statutory provision prevents or obstructs compliance by boards with the duty under Article 13(1), the Department may by order make provision modifying or excluding the application of the provision in relation to boards.

(2) The Department may by order make provision conferring on boards any power which the Department thinks necessary or expedient to permit or facilitate compliance with the duty under Article 13(1).

(3) In exercising a power conferred under paragraph (2) a board shall have regard to any guidance issued by the Department after consultation with the other funding departments.

(4) An order under this Article may—

- (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
- (b) amend a statutory provision;
- (c) include supplementary, incidental, consequential and transitional provisions.

(5) No order shall be made under this Article unless a draft has been laid before, and approved by resolution of, the Assembly

(6) Before the Department makes an order under this Article it shall consult—

- (a) the other funding departments;
- (b) the boards; and
- (c) such other persons as appear to the Department to be representative of interests affected by the proposals.

(7) If, following consultation under paragraph (6), the Department proposes to make an order under this Article it shall lay before the Assembly a document explaining the proposals and, in particular—

- (a) setting them out in the form of a draft order; and
- (b) giving details of consultation under paragraph (6).

(8) Where a document relating to proposals is laid before the Assembly under paragraph (7), no draft of an order under this Article to give effect to the proposals (with or without modification) shall be laid before the Assembly until after the expiry of the statutory period beginning with the day on which the document was laid.

(9) In preparing a draft order under this Article the Department shall consider any representations made during the period mentioned in paragraph (8).

(10) A draft order laid before the Assembly in accordance with paragraph (5) must be accompanied by a statement of the Department giving details of—

- (a) any representations considered in accordance with paragraph (9); and
- (b) any changes made to the proposals contained in the document laid before the Assembly under paragraph (7).

**Repeal of competition provisions**

16. Part II of, and Schedule 1 to, the [Education and Libraries \(Northern Ireland\) Order 1993 \(NI 12\)](#) (competition) shall cease to have effect.