

1993 No. 457

EDUCATION

**Voluntary Schools Building Grant Regulations
(Northern Ireland) 1993**

Made 22nd November 1993

Coming into operation 20th December 1993

The Department of Education in exercise of the powers conferred on it by Articles 116(1), (6) and (7) and 134(1) of the Education and Libraries (Northern Ireland) Order 1986(a) and of every other power enabling it in that behalf, and with the approval of the Department of Finance and Personnel, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Voluntary Schools Building Grant Regulations (Northern Ireland) 1993 and shall come into operation on 20th December 1993.

Revocations and savings

2.—(1) Subject to paragraph (2) the following Regulations are hereby revoked—

Voluntary Primary, Intermediate and Special Schools Building Grant Regulations (Northern Ireland) 1973(b);

Voluntary Grammar Schools Building Grant Regulations (Northern Ireland) 1973(c);

Voluntary Primary, Intermediate and Special Schools Building Grant (Amendment) Regulations (Northern Ireland) 1975(d);

Voluntary Grammar Schools Building Grant (Amendment) Regulations (Northern Ireland) 1975(e);

Voluntary Primary, Intermediate and Special Schools Building Grant (Amendment) Regulations (Northern Ireland) 1981(f); and

Voluntary Grammar Schools Building Grant (Amendment) Regulations (Northern Ireland) 1981(g).

(2) Regulation 6 of the Voluntary Primary, Intermediate and Special Schools Building Grant Regulations (Northern Ireland) 1973 and regulation 6

(a) S.I. 1986/594; (N.I. 3) Article 116 was substituted by S.I. 1993/2810; (N.I. 12) Article 28

(b) S.R. & O. (N.I.) 1973 No. 375

(c) S.R. & O. (N.I.) 1973 No. 379

(d) S.R. 1975 No. 83

(e) S.R. 1975 No. 84

(f) S.R. 1981 No. 271

(g) S.R. 1981 No. 272

of the Voluntary Grammar Schools Building Grant Regulations (Northern Ireland) 1973 shall continue to apply in relation to any grant paid before the commencement of these Regulations.

Interpretation

3. In these Regulations—

- “the applicants” shall be construed in accordance with regulation 4;
- “the Order” means the Education and Libraries (Northern Ireland) Order 1986;
- “premises” means premises in respect of which payment of grant has been or is to be made under these Regulations and includes land;
- “replacement premises” in relation to a school mean any premises which replace any existing premises of that or any other school;
- “school” means a voluntary school.

Applications for grant

4. Applications for payment of grant in respect of approved expenditure incurred for the provision or alteration of the premises of a school shall be made by or on behalf of the trustees or other persons in whom the ownership of the premises is, or is to be, vested (“the applicants”) and shall be in such form and contain such particulars and information as the Department may determine.

Grant conditions

5.—(1) The applicants shall perform and observe the following grant conditions so as to—

- (a) satisfy the Department that the premises are vested on such approved terms and conditions in such trustees or other body as may be approved for the purpose of maintaining and carrying on a school;
- (b) furnish such relevant documents as the Department may require for its approval or information;
- (c) comply with any procedure for tendering for a contract as the Department may direct;
- (d) provide the Department with such evidence as it may require for the purpose of verifying the expenditure towards which grant is claimed;
- (e) maintain the premises in a satisfactory manner and carry out such maintenance work or take such other action as the Department may direct, except that in relation to a maintained school the applicants shall not be required to carry out any work which is the responsibility of an Education and Library Board under Article 8(1) of the Order;
- (f) insure and keep insured the premises against loss or damage by fire or flood and against such other risks as the Department may in writing direct, in some insurance office of repute for a sum equal to the replacement value thereof; and insure adequately against loss, damage and any accident caused by, or related to a boiler installed on the premises;

(g) produce to the Department on request any policy of insurance for the time being in force and the receipt for the last premium due thereunder and, if any loss or damage by fire or flood or otherwise is caused to the premises or any part thereof, expend in re-building or reinstating such premises, all or so much of the money received under such policy of insurance as the Department may require; and

(h) sign an undertaking to perform and observe the grant conditions mentioned in sub-paragraphs (a) to (g).

(2) Where it is necessary for the purposes of payment of grant under these Regulations for a document to be prepared vesting the school in the applicants, the document shall be prepared by the Department free of charge save for stamp duty or other statutory fees or for any expenditure incurred in obtaining proof of title or any necessary consent.

(3) In the event of a breach of any of the grant conditions specified in paragraph (1) the applicants, or their successors in title for the time being, shall repay to the Department the full amount of grant or such lesser amount as the Department considers equitable.

Payment of grant

6.—(1) Except as provided for in paragraphs (2) and (3) no payment of grant shall be made in respect of expenditure incurred for the provision or alteration of the premises of a school without the prior approval of the Department or where works in relation to those premises have not been completed to the satisfaction of the Department.

(2) Where such expenditure has been incurred without the prior approval of the Department the payment of grant in respect of that expenditure may be reduced by such amount as the Department considers equitable in the circumstances.

(3) The Department may make payments of grant by instalments but the final instalment shall not be paid until all the work has been completed to the satisfaction of the Department and any defects liability period prescribed in any contract entered into by the applicants has expired.

Duty to pursue application for compensation under the Criminal Damage Compensation (Northern Ireland) Order 1977

7. Where the premises have been damaged in circumstances where compensation under the Criminal Damage Compensation (Northern Ireland) Order 1977(a) is likely to be payable the applicants shall take all reasonable steps to pursue an application under that Order and use any compensation paid (or such part thereof as the Department may require) for the purpose of reinstating the premises.

Prohibition on use of the premises for political meetings etc.

8. The applicants shall not cause or permit the premises to be used for any political meeting, the transaction of any political business or for any purpose

(a) S.I. No. 1247 (N.I. 14)

connected directly or indirectly with Parliamentary, Northern Ireland Assembly or Local Government elections or a poll pursuant to Section 1 of the Northern Ireland Constitution Act 1973(a) except as polling booths on the requisition of the officer responsible in accordance with the statutory provisions governing such elections or poll as the case may be.

Amounts payable to the Department in respect of school closures

9. Where any premises of a school in respect of which the Department has paid grant under Article 116(1) of the Order cease to be used for approved purposes of a grant-aided school there shall be payable to the Department by the persons to whom grant was paid or by their successors in title for the time being such sum as the Department considers equitable but not exceeding—

- (a) in respect of grants paid prior to 9th August 1978 and within a period of 50 years (or such lesser period as the Department may in a particular case determine) following the completion of the works to which the payment related, either—
- (i) the total amount of grant paid in respect of approved expenditure incurred for the provision or alteration of the premises; or
 - (ii) such proportion of the value of the premises as the proportion that the amount of grant was of the approved cost of the provision or alteration of the premises,

whichever is the lesser;

- (b) in respect of grant paid at any time after 8th August 1978—

- (i) such proportion of the value of the premises as the proportion that the amount of grant was of the approved cost of the provision or alteration of the premises; and
- (ii) if the Department so determines, interest on that sum from the date on which the premises ceased to be used for approved purposes of a grant-aided school until the date of payment to the Department.

Amounts payable to the Department in respect of certain sites

10. Where any site in respect of which the Department has at any time after 8th August 1978 paid grant under Article 116(1) of the Order ceases in the opinion of the Department to be required for the purposes of a grant-aided school there shall be payable to the Department by the persons to whom the grant was paid or by their successors in title for the time being such sum as the Department considers equitable but not exceeding—

- (a) such proportion of the value of the site as the proportion that the amount of grant was of the approved cost of the acquisition of the site; and
- (b) if the Department so determines, interest on that sum from the date on which the site ceased to be so required until the date of payment to the Department.

Amount of grant in respect of replacement schools

11.—(1) Where the Department proposes to pay grant under Article 116(1) of the Order in respect of expenditure incurred for the provision or alteration of the premises of a school and in the opinion of the Department the premises so provided or altered are replacement premises, the Department may—

- (a) where the proceeds resulting from the disposal of the replaced premises are realised before expenditure is incurred for the provision or alteration of the replacement premises, reduce the amount of grant so payable by such amount as the Department considers equitable;
- (b) where the replaced premises continue to be used for approved purposes of a grant-aided school until such time as expenditure is incurred for the provision or alteration of the replacement premises, require that when the replaced premises cease to be so used the persons to whom the grant was paid or their successors in title for the time being shall pay to the Department such amount as it considers equitable.

(2) The amount by which grant may be reduced under paragraph (1)(a) or the amount payable to the Department under paragraph (1)(b) shall consist of a sum not exceeding—

- (a) such proportion of the value of the replaced premises as the proportion that the amount of grant is or was of the approved cost of the provision or alteration of the replacement premises; and
- (b) if the Department so determines, interest on that sum from the date on which the replaced premises ceased to be used for approved purposes of a grant-aided school until the date of the payment of the grant under paragraph (1)(a) or, as the case may be, the payment to the Department under paragraph (1)(b).

12. For the purposes of regulations 9, 10 and 11—

- (a) the value of the premises or a site shall be the amount which the premises or site might be expected to realise if sold on the open market on the date on which the premises ceased to be used or the site ceased to be required for the purposes of a grant-aided school and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value shall be referred to and determined by the Lands Tribunal for Northern Ireland;
- (b) in the calculation of either the amount by which a grant may be reduced or the amount payable to the Department, as appropriate, there shall be taken into account such costs incurred by the persons to whom grant was paid or by their successors in title for the time being, as the Department determines are reasonable;
- (c) interest shall be at the rate of 8 percent per annum.

Amounts payable to the Department in respect of a change of status by a school or where certain agreements cease to be in force

13.—(1) Where grant has been paid by the Department under Article 116(1) of the Order in respect of approved expenditure incurred for the provision or alteration of the premises of a school and—

- (a) in the case of a maintained school that school ceases, pursuant to Part II of Schedule 5 to the Order(a), to be a maintained school; or
- (b) in the case of a maintained school an agreement entered into by the trustees with the Department under paragraph 1 of Schedule 5 to the Order ceases to be in force in relation to the school; or
- (c) in the case of a voluntary grammar school an agreement entered into by the trustees with the Department under paragraph 1(1)(a) or (b) of Schedule 6 to the Order(b) cease to be in force in relation to the school; or
- (d) in the case of a voluntary grammar school an agreement entered into by the trustees with the Department under paragraph 1(1)(a) of Schedule 6 to the Order ceases to be in force in relation to the school and is replaced by an agreement under paragraph 1(1)(b) of that Schedule,

there shall be payable to the Department by the persons to whom grant was paid or by their successors in title for the time being the appropriate amount.

(2) For the purposes of paragraph (1) “the appropriate amount” means the amount equal to the difference between the amount actually paid under Article 116(1) of the Order at the time when the expenditure was incurred and the sum which would have been so paid—

- (a) in any case to which sub-paragraph (a) applies had the school not been a maintained school;
- (b) in any case to which sub-paragraph (b), (c) or (d) applies had the trustees not entered into any agreement under that sub-paragraph as the case may be.

Recovery of sums payable to the Department

14. Any sum payable to the Department under these Regulations may be recovered by it as a civil debt.

Sealed with the Official Seal of the Department of Education on 22nd November 1993.

(L.S.)

A. McVeigh

Assistant Secretary

(a) As substituted by S.I. 1993/2810; (N.I. 12) Schedule 2, Part II.

(b) As substituted by S.I. 1993/2810; (N.I. 12) Schedule 2, Part III.

No. 457

Education

2569

The Department of Finance and Personnel hereby approves the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel
on 22nd November 1993.

(L.S.)

J. Caldwell

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations come into operation on 20th December 1993 and, subject to a saving provision, revoke the Voluntary Primary, Intermediate and Special Schools Building Grant Regulation (Northern Ireland) 1973 (as amended) and the Voluntary Grammar Schools Building Grant Regulations (Northern Ireland) 1973 (as amended).

The Regulations prescribe conditions under which grants may be made by the Department of Education ("the Department") under Article 116(1) of the Education and Libraries (Northern Ireland) Order 1986 in respect of expenditure incurred for the provision or alteration of the premises of a voluntary school.

The Regulations—

- (a) prescribe the persons who may apply for grant and provide that an application shall be in such form and contain such particulars and information as the Department may determine (regulation 4);
- (b) set out conditions relating to title, furnishing of documents, tendering procedures, verification of expenditure, maintenance and insurance (regulation 5);
- (c) provide that expenditure must, except under certain circumstances, be approved by the Department before it is incurred and that payments of grant may be made by instalments if certain conditions are satisfied (regulation 6);
- (d) require in certain circumstances the applicants to pursue an application for compensation under the Criminal Damage Compensation (Northern Ireland) Order 1977 and to use compensation received to reinstate the premises (regulation 7);
- (e) prohibit the use of the premises for political meetings or the transaction of political business and restrict the use of the premises for any purpose connected with elections (regulation 8);
- (f) provide that where premises cease to be used as a grant-aided school and are not replaced, or where a site ceases to be so required, certain sums are payable to the Department by the persons to whom grant was paid or by their successors in title for the time being (regulations 9 and 10);
- (g) provide for reduction or repayment of grant where grant is paid towards expenditure to replace existing premises (regulation 11);
- (h) provide for repayment of grant where a school ceases to be a maintained school or where certain agreements between the Department and the Board of Governors of a school cease to be in force (regulation 13);
- (i) provide for the recovery of sums payable to the Department (regulation 14).