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STATUTORY INSTRUMENTS

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**1986 No. 594 (N.I. 3)**

The Education and Libraries (Northern Ireland) Order 1986 <sup>F1</sup>

- - - - - 26th March 1986

**F1** functions transf. by SR 1999/481

**Modifications etc. (not altering text)**

**C1** Order (S.I. 2006/1915 (N.I. 11) construed as one with this Order (27.7.2006) by virtue of [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(3)(a), **2(3)**

PART I

PRELIMINARY

***Title and commencement***

1.—(1) This Order may be cited as the Education and Libraries (Northern Ireland) Order 1986.

(2) This Order shall come into operation on the expiration of three months from the day on which it is made.

***Interpretation***

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly and nothing in this Order shall, except where otherwise expressly provided, prejudice the provisions of the said Act of 1954 and section 17(2) of the said Act of 1954 (amendment, revocation etc. of statutory instruments) shall apply to statutory instruments within the meaning of that Act made under<sup>[F2</sup> the Education Orders] and directions given under<sup>[F2</sup> the Education Orders] by the Department whether or not such statutory instruments or directions are of a legislative character.

(2) In this Order—

“approved” means approved by the Department;

“award” includes scholarship, studentship, exhibition, bursary, maintenance or other allowance or any combination thereof;

“board” means an education and library board;

<sup>[F2</sup>“Catholic maintained school” has the meaning assigned to it by Article 141(3) of the 1989 Order;]

“child”<sup>F3</sup> . . . means a person who is not over compulsory school age;

**Status:** Point in time view as at 25/03/2022.

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“clothing” includes footwear;

“college of education” means a college for the training of teachers<sup>[F4]</sup> being a college in respect of which grants are paid under Article 66(2), (2A) or (3);]

“compulsory school age” has the meaning assigned to it by Article 46;

“contributory school” means, in relation to a controlled<sup>[F2]</sup> secondary school], a controlled primary school from which, in the opinion of <sup>[F5]</sup>the Authority<sup>[F6]</sup>..., a substantial number of pupils proceed or are likely to proceed to the controlled<sup>[F2]</sup> secondary school] for the purpose of continuing their education;

“controlled school” means a grant-aided school under the management of <sup>[F5]</sup>the Authority] ;

<sup>[F2]</sup>“controlled integrated school” means a school which has become, or has been established as, a controlled integrated school in accordance with Articles 90 to 92 of the 1989 Order;]

*Definition rep. by 1989 NI 20*

“enactment” has the meaning assigned to it by section 1(b) of the Interpretation Act (Northern Ireland) 1954;

“former local education authority” means a local education authority within the meaning of the enactments repealed by the 1972 Order;

<sup>[F7]</sup>“further education” has the meaning assigned to it by Article 3 of the Further Education (Northern Ireland) Order 1997;]

<sup>[F2]</sup>“grammar school” means a secondary school which—

- (a) immediately before the coming into operation of Article 128 of the 1989 Order was a school in which fees were charged or could have been charged in respect of pupils admitted to the school, or a school which replaces such a school or schools; or
- (b) is established after the coming into operation of that Article and is designated by the Department as a grammar school;]

“grant-aided”, when used in relation to a school, institution or establishment, means a school, institution or establishment, as the case may be, to or in respect of which grants are made under<sup>[F2]</sup> the Education Orders], not being a college of education;

<sup>[F2]</sup>“grant#maintained integrated school” has the meaning assigned to it by Article 65(3) of the 1989 Order;]

<sup>[F3]</sup>“independent school” means a school at which full#time education is provided for pupils of compulsory school age (whether or not such education is also provided for pupils under or over that age), not being a grant#aided school;]

<sup>[F7]</sup>“institution of further education” has the meaning assigned to it by Article 2(2) of the Further Education (Northern Ireland) Order 1997;]

“instrument of government of a school” means any statutory provision or any charter, deed, memorandum of association, articles of association or other document constituting the school or under which the land used for the school is vested or which otherwise relates to the school or land used for the school;

*Definition rep. by 1989 NI 20*

“junior pupil” means a child who has not attained the age of eleven years and six months;

<sup>[F8]</sup>“maintained school” means a voluntary school other than a grammar school<sup>[F3]</sup>. . . ;]

“managers” means—

- (a) in relation to a controlled school, <sup>[F5]</sup>the Authority<sup>[F6]</sup>...;

(b) [<sup>F8</sup>in relation to a voluntary school or a grant#maintained integrated school, the Board of Governors of the school;]

(d) in relation to an independent school, the proprietor of the school;

(e) [<sup>F7</sup>in relation to an institution of further education, the governing body of that institution;]

(f) in relation to a college of education, the person or body responsible for its management;  
“medical officer” means a registered medical practitioner employed or engaged whether regularly or for the purposes of any particular case by or by direction of the Department of Health and Social Services;

[<sup>F2</sup>“modifications” includes additions, alterations and omissions;]

“newspaper” in Articles 95 to 97 includes any newsagency which as part of its regular business sells or otherwise supplies for reward reports or information to newspapers and any organisation which as part of its regular business collects news for sound or television broadcasts or for programmes to be included in a [<sup>F9</sup> programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;]

[<sup>F10</sup>“nursery school” means a primary school which is used mainly for the purpose of providing full#time or part#time education for children who have attained the age of 2 years but are under compulsory school age;]

“officer”, in relation to [<sup>F5</sup>the Authority] , includes a servant but does not include a teacher;

[<sup>F11</sup>“parent” shall be construed subject to paragraphs (2D) to (2F);]

*Definition rep. by 1997 NI 15*

“peripatetic teacher” has the meaning assigned to it by Article 65(2)(a);

*Definition rep. by 1997 NI 15*

“premises”, in relation to a school, includes any detached playing fields but does not include a teacher's or caretaker's residence;

“prescribed” means prescribed by regulations;

[<sup>F10</sup>“primary education” means—

(a) full#time education suitable to the requirements of junior pupils of compulsory school age; and

(b) full#time or part#time education suitable to the requirements of junior pupils under compulsory school age;]

“primary school” means either a grant-aided school which provides only primary education or a grant-aided school which provides both primary and secondary education and is recognised by the Department as a primary school;

“proprietor”, in relation to a school, means the person responsible for the management of the school and, for the purposes of the provisions of this Order relating to applications for the registration of independent schools, includes any person proposing to be so responsible;

“provisionally registered school” means an independent school registered in the register of independent schools, the registration of which is provisional only;

“pupil”, when used without qualification, means a person of any age for whom education is provided under [<sup>F2</sup> the Education Orders];

“registered pupil”, in relation to a school, means a pupil registered as such in the register kept in accordance with the requirements of this Order but does not include any child who has been withdrawn from the school in the prescribed manner;

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“registered school” means an independent school registered in the register of independent schools the registration of which is final;

“regulations” means regulations made by the Department;

[<sup>F2</sup>“scheme of management” has the meaning assigned to it by Article 9A(1);]

“school” means an institution for providing primary or secondary education or both primary and secondary education, being a grant-aided school or an independent school; and, when used without qualification, means either or both such schools as the context may require;

“secondary education” means full-time education suitable to the requirements of senior pupils<sup>F2</sup>. . . [<sup>F7</sup> other than such full-time education provided for senior pupils over compulsory school age at an institution of further education];

“secondary school” means either a grant-aided school which provides only secondary education or a grant-aided school which provides both primary and secondary education and is recognised by the Department as a secondary school;

“senior pupil” means a person who has attained the age of eleven years and six months but has not attained the age of nineteen years;

[<sup>F3</sup>“special educational needs”, “special educational provision” and “special school” have the meanings assigned by Article 3 of the Education (Northern Ireland) Order 1996;]

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

*Definition rep. by 1993 NI 12*

*Definition rep. by 1997 NI 15*

[<sup>F12</sup>“the Authority” means the Education Authority;]

“the Department” means the Department of Education;

[<sup>F10</sup>“the Education Orders” means—

- (a) this Order;
- (b) the 1989 Order;
- (c) the Education and Libraries (Northern Ireland) Order 1993;
- (d) the Education (Northern Ireland) Order 1996;
- (e) the Education (Northern Ireland) Order 1997;
- (f) the Further Education (Northern Ireland) Order 1997;
- (g) the Education (Northern Ireland) Order 1998;
- (h) [<sup>F4</sup>the Colleges of Education (Northern Ireland) Order 2005;]
- (h) [<sup>F13</sup>the Education and Libraries (Northern Ireland) Order 2003;
- (i) the Education (Northern Ireland) Order 2006.]]

[<sup>F14</sup>“the funding departments” has the meaning given by section 6(1) of the Education Act (Northern Ireland) 2014;]

“the 1972 Order” means the Education and Libraries (Northern Ireland) Order 1972;

[<sup>F2</sup>“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989;]

“transferors” means—

- (a) any trustees or other persons by whom a school has been transferred to a former education authority under the Education Act (Northern Ireland) 1923, to a former local education authority under the Education Act (Northern Ireland) 1947 or to the Department under

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the 1972 Order or this Order and includes trustees appointed in place of such trustees and the representatives or successors of such persons; or

- (b) the Department, where a school is placed under the management of [<sup>F5</sup>the Authority] under Article 17(6);

“transferred provision” has the meaning assigned to it by section 1(g) of the Interpretation Act (Northern Ireland) 1954;

“trust deed” includes any instrument regulating the trusts or management of a school;

“trustees”, in relation to a voluntary<sup>F2</sup> or grant#maintained integrated] school or college of education, means the person or persons in whom the premises of the school or college of education are, or are to be, vested;

“voluntary school” means a grant-aided school other than a controlled school<sup>F2</sup> or a grant# maintained integrated school];

“young person” means a person over compulsory school age who has not attained the age of eighteen years.

*Paras. (2A)#(2C) rep. by 1997 NI 15*

<sup>F15</sup>(2A) In the Education Orders references to pupils “at” or “attending” a grant-aided school include references to pupils who are not registered pupils at the school but are pupils to whom secondary education is provided at the school in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006]

<sup>F11</sup>(2D) In the Education Orders “parent”, in relation to a child or young person, includes any person—

- (a) who is not a parent of his but who has parental responsibility for him, or  
(b) who has care of him,

except for the purposes of the provisions specified in paragraph (2E) where it only includes such a person if he is an individual.

(2E) The provisions referred to in paragraph (2D) are—

- (a) Article 13 and Schedules 4 to 8;  
(b) Articles 69, 70 and 126 of, and Schedule 5 to, the 1989 Order.

(2F) For the purposes of paragraph (2D)—

- (a) “parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995; and  
(b) in determining whether an individual has care of a child or young person any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded.]

<sup>F16</sup>[  
<sup>F10</sup>(2G)] 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.

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<sup>F10</sup>(2H)] 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.]

(3) For the purposes of section 42(3) of the Northern Ireland Constitution Act 1973 (validity of Orders in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972) provisions of this Order which re-enact provisions of an Order in Council under the said section 1(3) shall be deemed to be provisions of such an Order.

- F2** 1989 NI 20
- F3** 1996 NI 1
- F4** 2005 NI 13
- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F6** Words in art. 2(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F7** 1997 NI 15
- F8** 1993 NI 12
- F9** 1990 c. 42
- F10** 1998 NI 13
- F11** 1995 NI 2
- F12** Words in art. 2(2) inserted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(1)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F13** In art. 2(2) words in definition of "the Education Orders" added (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 1**
- F14** Words in art. 2(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(2)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F15** Art. 2(2A) inserted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 22**; S.R. 2007/197, **art. 2(a)**
- F16** 1997 NI 5

## <sup>F17</sup>PART II

### EDUCATION AND LIBRARY BOARDS AND COMMITTEES THEREOF

- F17** Pt. II repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

#### Education and library boards

3. ....

#### Committees

4. ....

## PART III PROVISION OF EDUCATION

### *The statutory system of education*

#### **[<sup>F18</sup>Stages and purposes of statutory system of education**

- 5.—(1) The statutory system of public education shall be organised in three stages, namely—
- (a) primary education;
  - (b) secondary education; and
  - (c) further education.

(2) It shall be the duty of [<sup>F5</sup>the Authority] (so far as its powers extend) to contribute towards the spiritual, moral, cultural, intellectual and physical development of the community by securing that efficient primary education and secondary education are available to meet the needs [<sup>F19</sup>of the community].

(3) The Further Education (Northern Ireland) Order 1997 confers functions with respect to further education.]

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F18** 1997 NI 15
- F19** Words in art. 5(2) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 9(3)** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### *Powers and duties of boards in relation to primary and secondary education*

#### ***Duty of boards to secure provision of primary and secondary education***

6.—(1) Subject to paragraph (2), [<sup>F5</sup>the Authority] shall secure that there are available <sup>F20</sup>... sufficient schools for providing primary and secondary education and the schools available <sup>F20</sup>... shall not be deemed to be sufficient unless they are sufficient in number, character and equipment to afford for all pupils opportunity for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities and aptitudes, and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs and, without prejudice to the generality of the foregoing provisions of this Article, [<sup>F5</sup>the Authority] in fulfilling its duties under this Article shall in particular have regard to—

- (a) the need for securing that special educational provision is made for pupils who have special educational needs;
- (b) the expediency of securing the provision of boarding accommodation, either in boarding schools or otherwise, for pupils for whom education as boarders is considered by their parents and by [<sup>F5</sup>the Authority] to be desirable.

[<sup>F21</sup>(1A) In fulfilling its duty under this Article to secure that there are available <sup>F22</sup>... sufficient schools for providing secondary education [<sup>F5</sup>the Authority] shall have regard to any facilities for full time education which are—

- (a) provided for senior pupils in an institution of further education; <sup>F23</sup>...

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<sup>F23</sup>(b)] . . . . .

(2) Each board may provide nursery schools or nursery classes in other controlled schools; and Article 7 shall apply to any provision made by [<sup>F5</sup>the Authority] under this paragraph.

*Para. (3) rep. by 1998 NI 13*

*Para. (4) rep. by 1996 NI 1*

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F20** Words in art. 6(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F21** 1989 NI 20
- F22** Words in art. 6(1A) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F23** Art. 6(1A)(b) and preceding word repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

***Provision, maintenance and management of controlled schools by boards***

7. For the purposes of fulfilling its duties under [<sup>F24</sup>the Education Orders], [<sup>F5</sup>the Authority] may provide primary, secondary and special schools <sup>F25</sup>... and shall maintain and manage any such school provided by it or transferred to its management <sup>F25</sup>....

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F24** 1989 NI 20
- F25** Words in art. 7 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

***Duties of boards in relation to certain voluntary schools***

8. <sup>F26</sup> . . . . .

- F26** Art. 8 repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(h), 91(2)(3), Sch. 6 Pt. II; S.R. 2009/183, **art. 3(e)(i)**

***<sup>F27</sup>Power of boards to assist voluntary grammar schools and direct grant voluntary intermediate schools***

9.—[<sup>F28</sup>(1)] A board, with the approval of the Department, may—

- (a) give assistance, other than financial assistance, to the trustees or Board of Governors of a voluntary grammar school<sup>F28</sup>. . . ; and
- (b) give financial assistance to the trustees or Board of Governors of a voluntary grammar school, [<sup>F29</sup> in relation to which an agreement with [<sup>F5</sup>the Authority] is in force under paragraph 2 of Schedule 6.]

[<sup>F28</sup>(2)] A board, with the approval of the Department, may give financial or other assistance to the Board of Governors of a grant#maintained integrated school on such terms and conditions as may be arranged between [<sup>F5</sup>the Authority] and the Board of Governors of the school.]



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- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F27** prosp. rep. by 1998 NI 13
- F28** 1989 NI 20
- F29** 1993 NI 12

### *School management*

#### [<sup>F30</sup>Schemes of management

**9A.**—(1) For every grant#aided school<sup>F31</sup> . . . there shall be a scheme (to be known as a “scheme of management”) providing for—

- (a) the membership and procedure of the Board of Governors of the school;
- (b) the management of the school, and in particular the functions to be exercised in relation to the school by the Board of Governors, the principal and any other person or body specified in the scheme;
- (c) such other matters as are required or authorised by the Education Orders to be included in or regulated by the scheme of management.

(2) The scheme of management for a grant#aided school may provide for the establishment by the Board of Governors of the school of committees (whether or not including persons who are not members of the Board of Governors) and for—

- (a) the membership and procedure of such committees;
- (b) the delegation to such committees of such functions of the Board of Governors of the school as may be specied in or determined in accordance with the scheme.

(3) The scheme of management for a grant#aided school may provide for the delegation to the principal of the school of such functions of the Board of Governors as may be specified in or determined in accordance with the scheme.

(4) The scheme of management for a grant#aided school shall—

- (a) contain no provision which is inconsistent with any provision of the Education Orders or any other statutory provision;
- (b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government of the school.

(5) The scheme of management for—

- (a) a controlled integrated school, shall be a scheme applying only to that school;
- (b) any other controlled school, may be either a scheme applying only to that school or a scheme applying to that school and to other controlled schools, all being schools specified, or of a description specified, in the scheme.

(6) The scheme of management for a Catholic maintained school may be a scheme applying only to that school or a scheme applying to that school and to other Catholic maintained schools, all being schools specified, or of a description specified, in the scheme.

*Para. (7) rep. by 1993 NI 12]*

- F30** 1989 NI 20
- F31** 1997 NI 15

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## Preparation of schemes of management

**9B.**—(1) It shall be the duty of [<sup>F5</sup>the Authority] to prepare a scheme or schemes of management for controlled schools <sup>F32</sup>...; but before preparing a scheme of management applying to any school [<sup>F5</sup>the Authority] shall consult the Board of Governors of that school.

(2) It shall be the duty of [<sup>F5</sup>the Authority] , after consultation with the managers or trustees of a maintained school (other than a Catholic maintained school) maintained by it, to prepare a scheme of management for the school.

(3) It shall be the duty of the Council for Catholic Maintained Schools to prepare a scheme or schemes of management for Catholic maintained schools; but before preparing a scheme of management applying to any school the Council shall consult the trustees or managers of the school and [<sup>F5</sup>the Authority]<sup>F33</sup>....

[<sup>F34</sup>(4) It shall be the duty of the Board of Governors of a voluntary school (other than a maintained school) to prepare a scheme of management for the school.]

(5) It shall be the duty of the Board of Governors of a grant#maintained integrated school to prepare a scheme of management for the school.

(6) In preparing a scheme of management under this Article a body or person shall take into account any guidance given by the Department as to the provisions it regards as suitable for inclusion in that scheme.

(7) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F32** Words in art. 9B(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F33** Words in art. 9B(3) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F34** 1993 NI 12

## Approval or imposition of scheme of management by Department

**9C.**—(1) Every body or person required by Article 9B to prepare a scheme of management shall, on or before such date as the Department may direct, submit the scheme to the Department for its approval, and in this Article and Article 9D “the submitting authority”, in relation to a scheme, means the body by which or person by whom the scheme is required to be prepared.

(2) In the case of a scheme prepared under paragraph (1) or (3) of Article 9B the submitting authority shall also submit to the Department such information as to the results of consultations under that paragraph as the Department may require.

(3) A scheme of management submitted under paragraph (1) shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority.

(4) Where—

(a) a submitting authority fails to submit a scheme to the Department as required by paragraph (1); or

- (b) it appears to the Department that a scheme submitted by a submitting authority as required by that paragraph does not accord with any guidance given by it for the purposes of Article 9B and cannot be made to do so merely by modifying it,

the Department may impose a scheme of management making such provision of a description required or authorised to be made by a scheme of management as it considers appropriate.

- (5) A scheme of management imposed by the Department by virtue of paragraph (4)—
- (a) shall be treated for all purposes as if it had been prepared by the submitting authority and approved by the Department under this Article; and
- (b) shall come into operation on such date as may be specified therein.

(6) Before imposing a scheme under paragraph (4) the Department shall consult the submitting authority and—

- (a) in the case of a scheme of management applying to a controlled school or controlled schools, the Board of Governors of the school or schools to which the scheme applies;
- (b) in the case of a scheme of management applying to a maintained school (other than a Catholic maintained school) the managers or trustees of the school; and
- (c) in the case of a scheme of management applying to a Catholic maintained school or schools, the managers or trustees of the school or schools to which the scheme applies and [F5the Authority]<sup>F35</sup> ....

(7) The Council for Catholic Maintained Schools shall provide [F5the Authority] with a copy of the scheme or schemes of management approved under this Article and applying to [F36Catholic maintained schools] .

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F35** Words in art. 9C(6)(c) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F36** Words in art. 9C(7) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(4) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

### Revision of schemes of management

**9D.**—(1) A submitting authority may at any time, and shall if the Department so directs, prepare a revised scheme of management and submit it to the Department for its approval.

(2) Article 9B(6) and (7) shall apply in relation to the preparation of a revised scheme of management as it applies in relation to the preparation of the initial scheme.

(3) A revised scheme of management submitted under paragraph (1) shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority.

### Management of controlled schools

**10.**—[F37(1) Subject to paragraph (2), [F5the Authority] shall make provision by means of a Board of Governors to be appointed by [F5the Authority] for the management of each controlled school

F38 F39  
... ..

**Status:** Point in time view as at 25/03/2022.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) Two or more controlled primary schools, other than controlled integrated primary schools or nursery schools, under the management of [F5the Authority] may, if [F5the Authority] so determines and the Department approves, be grouped under one Board of Governors.

(3) The scheme of management for a controlled school—

- (a) shall, in so far as it relates to the membership of the Board of Governors of the school, comply with the provisions of Schedule 4;
- (b) may provide for the carrying out by the Board of Governors in relation to the school of specified functions on behalf of, and in the name of, [F5the Authority] .

*Para. (4) rep. by 1989 NI 20*

<sup>F40</sup>(5) A Board of Governors shall, when carrying out specified functions on behalf of, and in the name of, [F5the Authority] , be regarded as a committee of [F5the Authority] but shall not be so regarded for any other purpose and the functions of a Board of Governors in relation to the appointment of teachers under Schedule 14 or the appointment of other staff under Article 88 shall not be regarded as being carried out on behalf of, or in the name of, [F5the Authority] .

- |            |   |
|------------|---|
| <b>F5</b>  | Words in Order substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 3 para. 1(1)(a)</b> (with <a href="#">Sch. 2 para. 4(3)</a> , <a href="#">Sch. 3 para. 1(2)</a> ); S.R. 2015/35, art. 2(b) |
| <b>F37</b> | <a href="#">1989 NI 20</a>  |
| <b>F38</b> | Words in art. 10(1) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)   |
| <b>F39</b> | <a href="#">1997 NI 15</a>  |
| <b>F40</b> | prosp. subst. by <a href="#">1989 NI 20</a>   |

### <sup>F41</sup>**Management of voluntary schools**

**11.—(1)** Subject to paragraph (3), each voluntary school shall be under the control and management of a Board of Governors.

(2) Subject to paragraph (3), each maintained school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Part I of Schedule 5<sup>F42</sup> . . . .

(3) Two or more maintained primary schools, other than nursery schools, may be grouped under one Board of Governors where the trustees or Board of Governors of each school so requests and—

- (a) in the case of Catholic maintained schools, the Council for Catholic Maintained Schools, with the approval of the Department, so determines; and
- (b) in the case of other maintained schools, [F5the Authority] , with the approval of the Department, so determines.

(4) Each voluntary grammar school in relation to which an agreement under paragraph 1 of Schedule 6 is in force shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6.

(5) Each voluntary grammar school in relation to which no agreement under paragraph 1 of Schedule 6 is in force shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 7.

*Para. (6) rep. by 1996 NI 1J*

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|------------|---|
| <b>F5</b>  | Words in Order substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 3 para. 1(1)(a)</b> (with <a href="#">Sch. 2 para. 4(3)</a> , <a href="#">Sch. 3 para. 1(2)</a> ); S.R. 2015/35, art. 2(b) |
| <b>F41</b> | <a href="#">1993 NI 12</a>  |
| <b>F42</b> | <a href="#">1996 NI 1</a>   |

### **[<sup>F43</sup>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.]

**F43** 1993 NI 12

### ***Miscellaneous provisions relating to Boards of Governors***

13.—(1) The proceedings of a Board of Governors[<sup>F44</sup> of a grant#aided school] shall not be invalidated by any vacancy among its members or by any defect in the appointment, election or nomination of any member.

(2) Without prejudice to the generality of paragraph (1), where[<sup>F44</sup> members of the Board of Governors of a grant#aided school] are required to be elected or nominated by other persons then if, for whatever reason, such members have not yet[<sup>F44</sup> been], or cannot be, so elected or nominated the Board of Governors shall notwithstanding such vacancies be regarded as fully constituted.

(3) Nothing in paragraph (1) or (2) affects the operation of any provision relating to the quorum for meetings of a Board of Governors.

[<sup>F44</sup>(3A) Where, at any grant#aided school,—

- (a) one or more vacancies for parent members are required to be filled by election; and
- (b) the number of parents standing for election as parent members is less than the number of vacancies,

the required number of parent members shall be made up by persons appointed by the voting members of the Board of Governors of the school.

[<sup>F45</sup>(3AA) [<sup>F46</sup>Where, in relation to a school established in a hospital, the Authority is of the opinion that] it is likely to be impracticable for there to be elections of parent members at the school, the required number of parent members may be made up by persons appointed by the voting members of the Board of Governors of the school.]

(3B) Where it is reasonably practicable to do so, it shall be the duty of the voting members of the Board of Governors in appointing any person under paragraph (3A)[<sup>F45</sup> or (3AA)] to appoint a person who is the parent of a registered pupil at the school.

(3C) In paragraph (3A)[<sup>F45</sup> or (3AA)] “parent member” means a member of the Board of Governors of a grant#aided school who but for that paragraph would be required to be elected by parents of [<sup>F47</sup>registered pupils at] the school from amongst the parents of such pupils.

(3D) A person appointed under paragraph (3A)[<sup>F45</sup> or (3AA)] shall for all purposes of the Education Orders except Schedule 8 to the 1989 Order be treated as if he had been duly elected as a member of the Board of Governors by parents of [<sup>F47</sup>registered pupils at] the school.

(3E) In paragraphs (3A)[<sup>F45</sup>, (3AA)] and (3B) “voting members” has the meaning assigned to it by Article 122(3) of the 1989 Order.]

(4) An assistant teacher elected as a member of the Board of Governors of one or more than one[<sup>F44</sup> grant#aided] school shall, on ceasing to be an assistant teacher at the school or one of the schools, cease to hold office as a member of the Board of Governors.

(5) A parent elected as a member of the Board of Governors of one or more than one[<sup>F44</sup> grant#aided] school shall not by reason only of ceasing to be a parent of a [<sup>F48</sup>registered pupil at] the school or one of the schools cease to hold office as a member of the Board of Governors.

**Status:** Point in time view as at 25/03/2022.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(6) Where the principal of a<sup>F44</sup> grant#aided] school is absent or otherwise unavailable, the Board of Governors of the school may invite the vice-principal or other person for the time being performing the duties of the principal to attend a meeting of the Board of Governors; and any person so invited shall be entitled to attend and take part in the meeting but not to vote on any question.

[<sup>F44</sup>(7) Any question as to the right of any person to be, or to appoint or nominate, a member of the Board of Governors of a grant#aided school shall be decided by the Department whose decision shall be final.]

**F44** 1989 NI 20

**F45** 1993 NI 12

**F46** Words in art. 13(3AA) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(5)** (with **Sch. 2 para. 4(3)**); S.R. 2015/35, art. 2(b)

**F47** Words in art. 13(3C)(3D) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 23(a)**; S.R. 2007/197, **art.2(a)**

**F48** Words in art. 13(5) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 23(b)**; S.R. 2007/197, **art. 2(a)**

*Establishment, recognition and discontinuance of, and effecting of changes to, grant-aided schools*

#### **Proposals as to primary and secondary education**

14.—(1) Where [<sup>F5</sup>the Authority] proposes—

- (a) to establish a new controlled school<sup>F49</sup>, other than a controlled integrated school];
- (b) to have an existing school recognised as a<sup>F49</sup> controlled school, other than a controlled integrated] school;
- (c) to discontinue a controlled school;
- (d) to make a significant change in the character or size of a controlled school;
- (e) to make any other change in a controlled school which would have a significant effect on another grant-aided school,

[<sup>F5</sup>the Authority] shall submit the proposal to the Department.

(2) Where a person other than [<sup>F5</sup>the Authority] proposes—

- (a) to establish a new voluntary school;
- (b) to have an existing school recognised as a<sup>F49</sup> voluntary] school;
- (c) to discontinue a voluntary school;
- (d) to make a significant change in the character or size of a voluntary school;
- (e) to make any other change in a voluntary school which would have a significant effect on another grant-aided school,

[<sup>F49</sup>then—

- (i) where the school is, or is proposed to be established or recognised as, a Catholic maintained school, the person making the proposal shall submit it to the Council for Catholic Maintained Schools which, after making such modifications (if any) as may be agreed with the person making the proposal, shall submit the proposal to [<sup>F5</sup>the Authority]<sup>F50</sup>... together with the Council's views thereon;
- (ii) in any other case, the person making the proposal shall submit the proposal to [<sup>F5</sup>the Authority]<sup>F50</sup>....,

and [F5the Authority] shall submit the proposal to the Department together with its views thereon and, in a case to which head (i) applies, the Council's views thereon.]

(3) It shall, where the Department so directs, be the duty of [F5the Authority] to submit to the Department a proposal—

- (a) to establish a new controlled school[F49, other than a controlled integrated school];
- (b) that a controlled or voluntary school should be discontinued;
- (c) that a significant change should be made in the character or size of a controlled or voluntary school.

(4) A proposal under paragraph (1), (2) or (3) shall be in such form and contain such particulars as may be required by the Department.

[F51(5) Before a proposal concerning an existing school is submitted to [F5the Authority] under paragraph (2), the person making the proposal shall consult the following persons (or representatives of them)—

- (a) the Board of Governors of the school concerned;
- (b) the teachers employed at that school; and
- (c) the parents of registered pupils at that school.

(5A) Before a proposal concerning an existing school is submitted to the Department by [F5the Authority] under paragraph (1) or (3), [F5the Authority] shall consult the following persons (or representatives of them)—

- (a) the Board of Governors of the school concerned;
- (b) the teachers employed at that school; and
- (c) the parents of registered pupils at that school.

(5B) Before a proposal concerning any school is submitted to the Department by [F5the Authority] under paragraph (1), (2) or (3), [F5the Authority] shall consult the trustees and managers (or representatives of them) of any other school which would, in the opinion of [F5the Authority] , be affected by the proposal.]

(6) A board, after submitting a proposal to the Department under paragraph (1), (2) or (3), shall—

- (a) forthwith furnish to the trustees and managers of every school which would, in the opinion of [F5the Authority] , be affected by the proposal such particulars of the proposal as are sufficient to show the manner in which the school would be affected;
- (b) forthwith publish by advertisement in one or more newspapers circulating in the area affected by the proposal a notice stating the nature of the proposal, that the proposal has been submitted to the Department, that a copy of the proposal can be inspected at a specified place and that objections to the proposal can be made to the Department within two months of the date specified in the advertisement, being the date on which the advertisement first appears;
- (c) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as [F5the Authority] may determine.

(7) Subject to Article 15(3), the Department, after considering any objections to a proposal made to it within the time specified in the notice under paragraph (6)(b), may, after making such modification, if any, in the proposal as, after consultation with [F5the Authority] or person making the proposal[F49 and, in a case to which paragraph (2)(i) applies, the Council for Catholic Maintained Schools], it considers necessary or expedient, approve the proposal and inform [F5the Authority] or person accordingly.

**Status:** Point in time view as at 25/03/2022.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(8) In relation to a proposal made under paragraph (3), paragraph (7) shall have effect with the substitution for the references to the person making the proposal of references to the trustees and managers of the school to which the proposal relates.

(9) A proposal under paragraph (1), (2) or (3) shall not be implemented until it has been approved by the Department.

[<sup>F52</sup>(9A) Subject to paragraph (9B), where a proposal under paragraph (1), (2) or (3) is approved by the Department after 1st April 1987, it shall be the duty of [<sup>F5</sup>the Authority] or person making the proposal to implement the proposal.

(9B) The Department may modify any proposal which is required to be implemented under paragraph (9A), but shall not do so except at the request of [<sup>F5</sup>the Authority] or person making the proposal.]

[<sup>F49</sup>(9C) Where the Department approves under paragraph (9) a proposal submitted to [<sup>F5</sup>the Authority] under paragraph (2)(i) by the Council for Catholic Maintained Schools, it shall be the duty of the Department to make such amendments (if any) to the scheme under Article 141(4) of the 1989 Order as appear to the Department to be necessary or expedient in connection with the implementation of that proposal.]

(10) Any dispute as to whether, for the purposes of this Article, a change is a significant change or would have a significant effect on another grant-aided school shall be determined by the Department.

- |            |   |
|------------|---|
| <b>F5</b>  | Words in Order substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 3 para. 1(1)(a)</b> (with <a href="#">Sch. 2 para. 4(3)</a> , <a href="#">Sch. 3 para. 1(2)</a> ); S.R. 2015/35, art. 2(b) |
| <b>F49</b> | 1989 NI 20  |
| <b>F50</b> | Words in art. 14(2)(i)(ii) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)  |
| <b>F51</b> | 2003 NI 12  |
| <b>F52</b> | 1987 NI 2   |

### ***Establishment and recognition of grant-aided schools***

15.—(1) Where the Department approves a proposal to establish a [<sup>F53</sup> controlled or voluntary] school, [<sup>F5</sup>the Authority] or other person by whom the proposed school is to be established shall, unless the Department otherwise determines, submit to the Department in such form and in such manner as the Department may from time to time direct, specifications and plans for the school premises and the Department, on being satisfied that the school premises will conform to the standards specified<sup>F54</sup> . . . under Article 18 with or without such exemption from those standards as the Department may grant under that Article, may approve the specifications and plans.

(2) Where the proposal, specifications and plans for a new school have been approved by the Department, [<sup>F5</sup>the Authority] or persons by whom the proposed school is to be established shall not give effect to the proposal otherwise than in accordance with the specifications and plans as so approved.

(3) The Department shall not approve under Article 14(7) a proposal for the establishment[<sup>F53</sup> of a new voluntary school or the recognition of an existing school as a voluntary school] unless the school is to become a maintained school or unless it is to become a grammar school[<sup>F55</sup> in relation to which an agreement with the Department under paragraph 1(1) of Schedule 6 is in force];<sup>F55</sup> . . .

(4) Where the Department approves a proposal for the recognition of an existing school as a [<sup>F53</sup> controlled or voluntary] school, the Department may grant such recognition upon such terms and subject to such conditions as it may determine.



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- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F53** 1989 NI 20
- F54** 1996 NI 1
- F55** 1993 NI 12

### ***Discontinuance of grant-aided schools***

**16.**—(1) Subject to paragraph (2), where the trustees of a voluntary school propose to discontinue the school they shall give at least two years notice of their intention to the Department and to [<sup>F5</sup>the Authority]<sup>F56</sup>... but no such notice given without the prior approval of the Department shall be effective if the school premises were built or altered with the aid of a grant from the Department or financial assistance [<sup>F57</sup>by the Authority or by a board] or, before 1st October 1973, by a former local education authority.

(2) Paragraph (1) shall not apply where the Department and [<sup>F5</sup>the Authority]<sup>F56</sup>... agree to dispense with the notice required by that paragraph.

(3) If, during the period of a notice given under paragraph (1) in respect of a voluntary school, the trustees of the school inform the Department that they are unable or unwilling to carry on the school until the expiration of the notice, the Department may give such directions as to the carrying on of the school and as to the education of the children attending the school as it thinks expedient.

(4) Where a voluntary school is discontinued and—

- (a) moneys have been paid in respect of the school under [<sup>F58</sup>Article 68 of the Education (Northern Ireland) Order 1998], the trustees shall [<sup>F59</sup>repay to the Department such sums as are repayable in accordance with the provisions of regulations under that Article];

*Sub#para. (b) rep. by 1996 NI 1*

- (c) moneys have been paid in respect of the school under section 10 of the Education Act (Northern Ireland) 1930 or section 106 of the Education Act (Northern Ireland) 1947, the provisions of those sections and of any regulations thereunder relating to the repayment of such moneys shall continue to apply to the school as if those sections had not been repealed.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F56** Words in art. 16(1)(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b); S.R. 2015/35, art. 2(b)
- F57** Words in art. 16(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(6)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F58** Words in art. 16(4)(a) substituted (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, **art. 3(d)**
- F59** 1993 NI 12

### ***Transfer of voluntary schools***

**17.**—(1) Notwithstanding anything in any instrument of government of a voluntary school, the trustees of the school may, with the consent of the Department given after consultation with [<sup>F60</sup>the Authority] , transfer to the Department the school (which expression in this Article includes any land, equipment or teachers' residences held or used in connection with the school by the trustees or managers of the school) upon such terms as may be agreed by the trustees, the Department and [<sup>F61</sup>the Authority] and the provisions of Schedule 9 shall apply to any such transfer.

**Status:** Point in time view as at 25/03/2022.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) The terms on which a school is transferred to the Department under paragraph (1) may contain a provision that in specified circumstances the school should be transferred back to the original transferors or transferred to such other persons as may be specified.

(3) A school transferred under paragraph (1) shall, on the date of the transfer, become a controlled school and the Department shall place it under the management of [<sup>F62</sup>the Authority] and may, subject to the terms on which the school was transferred to the Department, convey to [<sup>F5</sup>the Authority] any estate in land relating to the school and, whether or not it does so, may transfer to [<sup>F5</sup>the Authority] any equipment, furniture or other movable contents of the school transferred to it under paragraph (1).

(4) The trustees of a school transferred under paragraph (1) shall, from the date of the transfer, be absolutely freed and discharged from all responsibility in connection with the school whether under any deed of trust or otherwise.

(5) The existing staff of teachers in a school transferred under paragraph (1) shall from the date of transfer be placed as regards appointment, dismissal and remuneration on terms not less favourable than those applicable to them before the transfer and any question which may arise as to the fulfilment or observance of the provisions or requirements of this paragraph shall be referred to the Department whose decision thereon shall be final.

(6) Where a school is vested in the Department, it may place the school under the management of [<sup>F63</sup>the Authority] but shall not do so without the consent of the managers of the school and where it does so, the Department may convey to [<sup>F5</sup>the Authority] any estate in land relating to the school.

<sup>F64</sup>(7) .....

<b>F5</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>F60</b>	Words in art. 17(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 9(7)</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
<b>F61</b>	Words in art. 17(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 9(8)</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
<b>F62</b>	Words in art. 17(3) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 9(7)</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
<b>F63</b>	Words in art. 17(6) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 9(7)</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
<b>F64</b>	Art. 17(7) 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)

**[<sup>F65</sup>Regulations as to carrying on of grant#aided schools**

**17A.—**(1) The Department may by regulations make provision as to the carrying on of grant#aided schools.

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

- (a) prescribing the terms and conditions on which a school may remain a grant#aided school;
- (b) with respect to the number and composition of the teaching staff to be provided in grant#aided schools;
- (c) with respect to the duration of the school day[<sup>F66</sup>, school term] and school year at such schools;
- (d) with respect to the curriculum and time#table to be followed in such schools;

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- (e) enabling the Department to prohibit the use in such schools of any book or the teaching material of which the Department does not approve;
- (f) preventing the use of the premises of such schools for such purposes as may be prescribed.

[ with respect to the keeping, disclosure and transfer of educational records about pupils  
<sup>F66</sup>(g) at such schools and the supply of copies of such records to such persons, and in such circumstances, as may be determined by or under the regulations.]

[  
<sup>F66</sup>(2A) Regulations made under paragraph (1) by virtue of paragraph (2)(g) may authorise persons who in pursuance of the regulations supply copies of any such records as are there mentioned to charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.]

(3) Regulations under this Article may enable the Department<sup>F66</sup> or a prescribed body or person] to authorise such exceptions, grant such approvals and make such determinations for the purposes of the regulations as are specified therein.]

**F65** 1987 NI 2  
**F66** 1989 NI 20

**Modifications etc. (not altering text)**

- C2** Art. 17A(2)(g) amendment continued (1.8.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(2), 44(1), **Sch. 2 para. 2(a)**
- C3** Art. 17A(2A) amendment continued (1.8.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(2), 44(1), **Sch. 2 para. 2(b)**

**[<sup>F67</sup>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) [<sup>F5</sup>the Authority][<sup>F68</sup>in the case 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.]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)  
**F67** 1993 NI 12

**Status:** Point in time view as at 25/03/2022.

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**F68** Words in art. 18(2)(a) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 9\(9\)](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Arts. 19, 20 rep. by 1989 NI 20

### *Religious education in schools*

#### ***Religious education in controlled and voluntary schools other than nursery and special schools***

**21.—(1)** Subject to the provisions of this Article, religious<sup>[F69]</sup> education] shall be given in every<sup>[F69]</sup> grant#aided] school other than a nursery<sup>F70</sup>. . . school and the school day in every such school shall also include collective worship whether in one or more than one assembly on the part of the <sup>[F71]</sup>registered pupils] at the school.

(2) In a controlled school<sup>[F69]</sup>, other than a controlled integrated school,] the religious<sup>[F69]</sup> education] required by paragraph (1) shall be undenominational religious<sup>[F69]</sup> education], that is to say,<sup>[F69]</sup> education] based upon the Holy Scriptures according to some authoritative version or versions thereof but excluding<sup>[F69]</sup> education] as to any tenet distinctive of any particular religious denomination and the collective worship required by paragraph (1) in any such school shall not be distinctive of any particular religious denomination.

<sup>[F72]</sup>(3) Subject to paragraph (3A), in—

- (a) a controlled integrated school;
- (b) a grant#maintained integrated school; and
- (c) a voluntary school,

the religious education and collective worship required by paragraph (1) shall be under the control of the Board of Governors of the school and that religious education shall be subject to such arrangements for inspection and examination as the Board of Governors thinks fit.]

<sup>[F73]</sup>(3A) In a grant-aided school the religious education required by paragraph (1) shall include religious education in accordance with any core syllabus specified under Article 11 of the Education (Northern Ireland) Order 2006.]

(4) Religious<sup>[F69]</sup> education] and collective worship required by paragraph (1) shall be so arranged that—

- (a) the school shall be open to pupils of all religious denominations for<sup>[F69]</sup> education] other than religious<sup>[F69]</sup> education];
- (b) no pupil shall be excluded directly or indirectly from the other advantages which the school affords.

(5) If the parent of any pupil requests that the pupil should be wholly or partly excused from attendance at religious<sup>[F69]</sup> education] or collective worship or from both, then, until the request is withdrawn, the pupil shall be excused from such attendance in accordance with the request.

(6) No payment from public funds in respect of a pupil shall be varied by reason of his attendance or non-attendance at religious<sup>[F69]</sup> education] or collective worship.

(7) Ministers of religion and other suitable persons, including teachers of the school, to whom the parents do not object shall, subject to paragraph (8), be granted reasonable access at convenient times to pupils in any<sup>[F69]</sup> grant#aided] school other than a nursery<sup>F70</sup>. . . school for the purpose of giving religious<sup>[F69]</sup> education], whether as to tenets distinctive of a particular religious denomination or otherwise, or of inspecting and examining the religious<sup>[F69]</sup> education] given in the school and<sup>[F69]</sup> education] given by virtue of this paragraph may be in addition to that provided under paragraph (1).

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(8) Paragraph (7) shall not, without the consent of the managers of the school, apply to a voluntary school in existence immediately before 1st October 1973 which was not at that date required to give such access as is referred to in that paragraph and where a pupil has been wholly or partly excused from attendance at religious<sup>F69</sup> education] in any voluntary school to which such access is not granted, such pupil may be withdrawn from the school during such periods as are reasonably necessary for the purpose of enabling him to receive religious<sup>F69</sup> education] of which his parents approve.

(9) The Department shall make such regulations as it considers necessary for securing that the provisions of this Article relating to religious education are complied with in all<sup>F69</sup> grant#aided] schools other than nursery<sup>F70</sup> . . . schools, and in particular such regulations may contain provisions with respect to—

- (a) the times during which any religious observance may be practised or any religious<sup>F69</sup> education] may be given;
- (b) the times during which pupils may be withdrawn from the school so that they may receive religious<sup>F69</sup> education] in accordance with the provisions of paragraph (8);
- (c) the making of arrangements for religious<sup>F69</sup> education] in schools;
- (d) the amount of time which may be allotted in the time-tables of schools to religious<sup>F69</sup> education].

**F69** 1989 NI 20

**F70** 1996 NI 1

**F71** Words in art. 21(1) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 24**, SR 2007/197, {art. 2(a)}

**F72** 1993 NI 12

**F73** Art. 21(3A) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 4**

**Modifications etc. (not altering text)**

**C4** Art. 21 amendment continued (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 3**

**Duties of teachers in controlled schools as to collective worship and religious instruction**

**22.**—(1) Subject to the provisions of this Article, the teachers in every controlled school other than<sup>F74</sup> a controlled integrated school or] a nursery<sup>F75</sup> . . . school, if so requested by [<sup>F5</sup>the Authority]<sup>F76</sup> ..., shall conduct or attend collective worship in the school and give undenominational religious<sup>F74</sup> education] in the school but a teacher in a controlled school shall not be required to give religious<sup>F74</sup> education] other than undenominational religious<sup>F74</sup> education].

(2) A teacher who has, under paragraph (1), been required to conduct or attend collective worship or give undenominational religious<sup>F74</sup> education], may make a request to the Board of Governors of the school in which he is serving to be wholly or partly excused from conducting or attending such worship or giving such<sup>F74</sup> education] or both from conducting and attending such worship and giving such<sup>F74</sup> education] and at the same time furnish to the Board of Governors for submission to [<sup>F5</sup>the Authority]<sup>F76</sup> ... a statutory declaration that his request to be so excused is made solely on grounds of conscience.

(3) Where a teacher makes a request under paragraph (2) and furnishes the statutory declaration required by that paragraph, the teacher shall, until the request is withdrawn, be excused in accordance with the request and whilst he is so excused shall not receive less emoluments or be deprived of, or

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disqualified for, any promotion or other advantage by reason of the fact that he does not conduct or attend collective worship or give undenominational religious<sup>F74</sup> education].

(4) Where <sup>F5</sup>the Authority] is wholly or partly unable to arrange that the teachers in a school conduct the collective worship or give the undenominational religious<sup>F74</sup> education] which it is required to provide in the school in accordance with the provisions of Article 21, <sup>F5</sup>the Authority] may, for the purpose of fulfilling its obligations under that Article, advertise for and appoint a teacher to conduct such collective worship or give such religious<sup>F74</sup> education].

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F74** 1989 NI 20

**F75** 1996 NI 1

**F76** Words in art. 22(1)(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Modifications etc. (not altering text)**

**C5** Art. 22 amendment continued (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 3**

***Religious instruction not to be inspected, but complaints to be investigated, by Department***

*Para. (1) rep. by 1989 NI 20*

*Para. (2) rep. by 1993 NI 12*

*Arts. 24#28 rep. by 1989 NI 20*

*Arts. 29#34 rep. by 1996 NI 1*

*Art. 35 rep. by 1987 NI 2*

*Art. 36 rep. by 1996 NI 1*

*Recreational, social, physical, cultural and youth service activities*

***Provision of facilities for recreational, social, physical, cultural and youth service activities***

**37**<sup>F77</sup>.—(1) Each board shall secure the provision<sup>F78</sup>... of adequate facilities for recreational, social, physical, cultural and youth service activities and for services ancillary to education and for that purpose may, with the approval of the Department, either alone or together with<sup>F78</sup>... any other person—

- (a) establish, maintain and manage any such facilities;
- (b) organise any such activities;
- (c) assist, by financial contributions or otherwise, any person to establish, maintain and manage any such facilities or to organise any such activities;
- (d) provide, or assist by financial contribution or otherwise in the provision of, leaders for such activities; and
- (e) defray or contribute towards the expenses of any persons taking part in any such activities.

(2) A board shall, in carrying out its functions under paragraph (1), have regard to the facilities provided by <sup>F79</sup>... other persons.

- (3) A board may from time to time make bye-laws for all or any of the following purposes—
- (a) for regulating the use and management of any lands or buildings provided by it for any of the purposes mentioned in paragraph (1);
  - (b) for regulating the days and times of, and charges for, admission to such lands or buildings;
  - (c) for the preservation of order and prevention of nuisances in such lands and buildings;

and such bye-laws may authorise persons employed by [<sup>F5</sup>the Authority] to enforce the bye-laws and to take all steps and do all acts and things necessary for that purpose and, in particular authorise such persons or members of the Royal Ulster Constabulary after due warning to remove or exclude from any place with respect to which any such bye-laws are for the time being in force a person who commits, or who is reasonably suspected of committing, in that place an offence against any such bye-law or against section 4 of the Vagrancy Act 1824.

<sup>F80</sup>(4) .....

- |   |
|---|
| <p><b>F5</b> Words in Order substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a>, <b>Sch. 3 para. 1(1)(a)</b> (with <a href="#">Sch. 2 para. 4(3)</a>, <a href="#">Sch. 3 para. 1(2)</a>); S.R. 2015/35, art. 2(b)</p> <p><b>F77</b> certain functions transf. by SR 1999/481</p> <p><b>F78</b> Words in art. 37(1) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a>, <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a>); S.R. 2015/35, art. 2(b)</p> <p><b>F79</b> Words in art. 37(2) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a>, <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a>); S.R. 2015/35, art. 2(b)</p> <p><b>F80</b> Art. 37(4) repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a>, <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a>); S.R. 2015/35, art. 2(b)</p> |
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## PART IV

### INDEPENDENT SCHOOLS

#### *Registration of independent schools*

**38.**—(1) The Department shall keep a register of all independent schools which register shall be open to public inspection at all reasonable times and the Department shall, subject to paragraphs (2) and (3), register therein any independent school the proprietor of which makes application for the purpose in the prescribed manner and furnishes the prescribed particulars.

- (2) An independent school shall not be registered if, by virtue of an order made under this Part—
- (a) the proprietor is disqualified from being the proprietor of an independent school; or
  - (b) the school premises are disqualified from being used as a school; or
  - (c) the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order.

(3) The registration of an independent school shall be provisional only until the Department, after the school has been inspected on its behalf under the provisions of this Order, gives notice to the proprietor that the registration is final.

(4) The Department may make regulations prescribing the particulars to be furnished by the proprietors of independent schools and such regulations may provide for the notification to the Department of any changes in the particulars so furnished and as to the circumstances in which the

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Department may delete the name of any school from the register in the event of its being unable to obtain sufficient particulars thereof.

- (5) Any person who—
- (a) conducts an independent school, whether established before or after the coming into force of this Article, which is not registered or provisionally registered under paragraph (1); or
  - (b) being the proprietor of an independent school does any thing calculated to lead to the belief that the school is so registered whilst it is provisionally registered or not registered or that it is so provisionally registered whilst it is not provisionally registered;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(6) A person shall not be guilty of an offence under paragraph (5)(a) by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made within that period.

### **Complaints**

**39.**—(1) If at any time the Department is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds—

- (a) that the school premises or any parts thereof are unsuitable for a school;
- (b) that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school;
- (c) that efficient and suitable instruction is not being provided at the school having regard to the<sup>[F81]</sup> ages, sex and abilities] of the pupils attending thereat;
- (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school, as the case may be;
- <sup>[F82]</sup>(e) that there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by Article 176 of the Children (Northern Ireland) Order 1995 (welfare of children accommodated in schools);]

the Department shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of and, unless any such matters are stated in the notice to be in the opinion of the Department irremediable, the notice shall specify the measures necessary in the opinion of the Department to remedy the matters complained of and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

(2) If it is alleged by any notice of complaint served under this Article that any person employed as a teacher at the school is not a proper person to be employed in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation and a copy of the notice shall be served upon him.

(3) Every notice of complaint served under this Article and every copy of such a notice so served shall limit the time, not being less than one month after the service of the notice or copy, within which an appeal may be made against the notice in accordance with the provisions of Article 40.

**F81** 1996 NI 1

**F82** 1995 NI 2



### **Appeals against complaints**

**40.**—(1) Any person upon whom a notice of complaint or a copy of such a notice is served under Article 39 may, within the time limited by the notice, <sup>[F83]</sup> appeal therefrom to the Independent Schools Tribunal constituted in accordance with regulations under paragraph (8)].

- (2) <sup>[F83]</sup>On any appeal under this Article, the independent schools tribunal] shall have power—
- (a) to order that the complaint be annulled;
  - (b) to order that the school in respect of which the notice of complaint was served be struck off the register;
  - (c) to order that the school be so struck off unless the requirements of the notice, subject to such modifications, if any, as may be specified in the order, are complied with to the satisfaction of the Department before the expiration of such time as may be specified in the order;
  - (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises is inadequate having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order;
  - (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person from being the proprietor of any independent school or from being a teacher in any school, as the case may be.

(3) Where a notice of complaint has been served under this Order on the proprietor of any school and no appeal is made by him against the notice within the time limited in that behalf by the notice, the Department shall, subject to paragraph (4), have power to make any order which the <sup>[F83]</sup> independent schools tribunal] would have had power to make if an appeal had been made against the notice.

(4) Where it was alleged by a notice of complaint that any person employed as a teacher at a school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, appealed to <sup>[F83]</sup> the independent schools tribunal] against the notice, the Department shall not, unless the appeal is abandoned or not proceeded with, have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

(5) Where, by virtue of an order made <sup>[F83]</sup> by the independent schools tribunal] or by the Department, any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

(6) Orders made by the Department under this Article shall not be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(7) Every order of <sup>[F83]</sup> the independent schools tribunal] or of the Department made under this Article shall be registered by the Department and shall be open to public inspection at all reasonable times.

<sup>[F83]</sup>(8) The Department shall by regulations provide for the constitution and procedure of the Independent Schools Tribunal, and without prejudice to the generality of the foregoing such regulations—

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- (a) shall provide for the membership of the tribunal and may provide for disqualifying prescribed persons or descriptions of persons for membership of the tribunal;
  - (b) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the tribunal.
- (9) The Department may—
- (a) pay to members of the Independent Schools Tribunal such remuneration and expenses as it may, with the approval of the Department of Finance and Personnel, determine;
  - (b) defray the expenses of the tribunal to such amount as the Department may, with the approval of the Department of Finance and Personnel, determine;
  - (c) provide for the tribunal such staff and accommodation as the tribunal may require.]

**F83** 1996 NI 1

### ***Enforcement***

**41.**—(1) Where an order is made by the Department or by<sup>F84</sup> the independent schools tribunal] directing that any school be struck off the register, the Department shall as from the date on which the direction takes effect strike the school off the register.

(2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under Article 40, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, whilst he is disqualified from so acting or from being so employed by virtue of any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(4) No proceedings shall be instituted for an offence against this Part except by or on behalf of the Department.

**F84** 1996 NI 1

### ***Orders made under other enactments***

**42.** For the purposes of the foregoing provisions of this Part, a person who is disqualified, by an order made under Part III of the Education Act 1944 or Part V of the Education (Scotland) Act 1980 or any other enactment of the Parliament of the United Kingdom having for the time being the like effect, from being the proprietor of an independent school or from being a teacher in any school, shall be deemed to be so disqualified by virtue of an order made under this Part.

### ***Removal of disqualifications***

**43.**—(1) If, on the application of any person, the Department is satisfied that any disqualification imposed by an order made under Article 40 is by reason of any change of circumstances no longer necessary, the Department may by order remove the disqualification.

(2) Any person who is aggrieved by the refusal of the Department to remove a disqualification so imposed may, within such time not being less than one month after the refusal has been

communicated to him as shall be stated in the notice of refusal, appeal against the refusal to the<sup>F85</sup> independent schools tribunal].

F85 1996 NI 1

## PART V

### RIGHTS AND DUTIES OF PARENTS AND PROVISIONS RELATING TO INDIVIDUAL PUPILS

#### *General*

#### ***Pupils to be educated in accordance with wishes of their parents***

**44**<sup>F86</sup>. In the exercise and performance of all powers and duties conferred or imposed on them by<sup>F87</sup> the Education Orders], the Department and boards shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents.

F86 certain functions transf. by SR 1999/481

F87 1989 NI 20

#### ***Duties of parents to secure full-time education for their children***

**45.**—(1) The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise.

(2) The provisions of Schedule 13 shall apply to the enforcement of the provisions of paragraph (1) and a parent who contravenes the provisions of that Schedule shall be guilty of an offence and liable to the penalties provided by paragraph 4 of that Schedule.

#### **Modifications etc. (not altering text)**

C6 Art. 45(1) power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 17 para. 17](#) (with ss. 88-90)

C7 Art. 45(1) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), s. 89 (with s. 90)

#### ***Compulsory school age***

**46.**—(1) Subject to the following provisions of this Article, in the Education Orders the expression “compulsory school age” means any age between four years and sixteen years and accordingly a person shall be of compulsory school age if he has attained the age of four years and has not attained the age of sixteen years.

(2) Where a person attains the age of four years—

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- (a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in that following year;
  - (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the following year.
- (3) Where a person attains the age of sixteen years—
- (a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the upper limit of compulsory school age until, or as the case may be, deemed to have attained that upper limit on 30th June in that following year or such other date as the Department may, by order subject to affirmative resolution, prescribe;
  - (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the upper limit of compulsory school age until 30th June in the following year or such other date as the Department may, by order subject to affirmative resolution, prescribe.]

**F88** 1989 NI 20

### Commencement of secondary education

**46A.**—<sup>F89</sup>(1) <sup>F89</sup>Except as provided by paragraph (2), (3) or (4)], a child shall commence secondary education—

- (a) where he attains the age of eleven years on a date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, on 1st August in that following year;
- (b) where he attains that age on a date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, on 1st August in the following year.

<sup>F89</sup>(2) A child shall commence secondary education on 1st August next before his normal date of commencement where—

- (a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that earlier date; and
- (b) the parent of the child agrees with that opinion.

(3) A child shall commence secondary education on 1st August next after his normal date of commencement where—

- (a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that later date; and
- (b) the parent of the child agrees with that opinion.

(4) A child shall commence secondary education on 1st August next before or after his normal date of commencement where—

- (a) <sup>F5</sup>the Authority<sup>F90</sup> ... so directs; and
- (b) at the time the direction is given the child is not a registered pupil at any school.

(5) In forming an opinion for the purposes of paragraph (2) or (3) the Board of Governors of a school shall comply with the guidance issued under paragraph (6) and in particular—

- (a) shall take into account such matters or matters of such description as may be specified in such guidance;
  - (b) shall not take into account such matters or matters of such description as may be so specified; and
  - (c) shall follow such administrative procedures as may be so specified.
- (6) The Department shall issue such guidance as it thinks fit as to the exercise by a Board of Governors of its functions under this Article and such guidance shall in particular—
- (a) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (2) or (3) to take into account the advice of the principal of the school (or, in the case of a grammar school providing both primary and secondary education, the teacher in charge of that part of the school in which primary education is provided);
  - (b) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (3) to take into account the advice of [<sup>F91</sup>the Authority] ;
  - (c) specify the matters or descriptions of matters which are, or are not, to be taken into account by a Board of Governors in forming an opinion for the purposes of paragraph (2) or (3);
  - (d) specify the administrative procedures to be followed by a Board of Governors in exercising its functions under this Article; and
  - (e) prohibit the delegation by the Board of Governors (notwithstanding anything in the scheme of management of the school) of such functions under this Article as are specified in the guidance.
- (7) The Department shall issue such guidance as it thinks fit as to—
- (a) the exercise by [<sup>F5</sup>the Authority] of its functions under paragraph (4); and
  - (b) the giving by [<sup>F5</sup>the Authority] of advice for the purposes of paragraph (6)(b).
- (8) The Department shall publish the guidance issued by it under paragraphs (6) and (7) in such manner as it thinks fit.
- (9) In this Article—
- “appropriate Board of Governors”, in relation to a child, means the Board of Governors of the school at which the child is a registered pupil;
- “normal date of commencement”, in relation to a child, means the date on which, but for any provision made under paragraph (2), (3) or (4), the child would commence secondary education;
- <sup>F92</sup> ...
- (10) This Article does not apply in relation to—
- (a) children in respect of whom statements are maintained under Article 16 of the Education (Northern Ireland) Order 1996; or
  - (b) children in independent schools.]

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F89** 1996 NI 1

**F90** Words in art. 46A(4)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F91** Words in art. 46A(6)(b) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(10)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Status:** Point in time view as at 25/03/2022.

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**F92** Words in art. 46A(9) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35, art. 2\(b\)](#)

### ***Presumption as to age***

**47.** Where in any proceedings under<sup>[F93]</sup> the Education Orders] other than a prosecution to which paragraph 4 of Schedule 13 applies, the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age and satisfies the court that, having used all reasonable diligence to obtain evidence as to the age of that person, he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over the age alleged.

**F93** 1989 NI 20

### ***Registration of pupils at school***

**48.—(1)** The proprietor of every school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars with respect to all<sup>[F94]</sup> pupils attending the school (whether they are registered pupils of the school or not)] and regulations may—

- (a) make provision for enabling the registers so kept to be inspected and extracts taken therefrom for the purposes of<sup>[F95]</sup> the Education Orders] by persons duly authorised in that behalf under the regulations; and
- (b) require persons by whom registers are so kept to make to the Department and to boards such periodical or other returns as to the contents thereof as may be prescribed.

(2) A person who contravenes the provisions of paragraph (1) or of regulations thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) Regulations may prescribe the procedure by which a child may become a registered pupil at a school and the procedure by which a child may be withdrawn from a school at which he is a registered pupil<sup>F96</sup> . . . .

<sup>[F97]</sup>(3A) A child registered as a pupil at a school in any school year may not in that year be registered as a pupil at another school unless he is first withdrawn from the school at which he is registered.]

*Para. (4) rep. by 1996 NI 1*

**F94** Words in art. 48(1) substituted (23.3.2007) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(4)(c), 44(1), [Sch. 2 para. 25](#); [S.R. 2007/197, art. 2\(a\)](#)

**F95** 1989 NI 20

**F96** 1996 NI 1

**F97** Art. 48(3A) added (23.3.2007) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(4)(c), 44(1), [Sch. 2 para. 26](#); [S.R. 2007/197, art. 2\(a\)](#)

### **<sup>[F98]</sup>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 <sup>[F99]</sup>controlled schools] .

(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, [F<sup>5</sup>the Authority]<sup>F100</sup> ...; 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 <sup>F101</sup> ...; 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 [F<sup>5</sup>the Authority] 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;
  - [ may provide for an appeal tribunal in considering an appeal to have regard in particular
- <sup>F102</sup>(da) to any matters specified in the regulations;
- (db) may provide for appeal tribunals to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;]
  - (e) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by [F<sup>5</sup>the Authority] .

(11) An appeal tribunal shall not be regarded as a committee of [F<sup>5</sup>the Authority] .

(12) Article 79(1) shall apply to members of an appeal tribunal <sup>F103</sup> ....]

**Status:** Point in time view as at 25/03/2022.

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- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F98** 1993 NI 12
- F99** Words in art. 49(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(11)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F100** Words in art. 49(5)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F101** Words in art. 49(6)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F102** 2003 NI 12
- F103** Words in art. 49(12) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*Art. 49A rep. by 2003 NI 12*

*Provisions to assist persons to take advantage of educational facilities*

**Provision of awards by boards**

*Paras. (1), (2) rep. by 1998 NI 14*

(3) A board may make such<sup>F105</sup> . . . awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them being awards of such amount, to, or in respect of, persons of such description and granted on such conditions as have been approved by the Department.

- F104** certain functions transf. by SR 1999/481
- F105** 1998 NI 14

**[<sup>F106</sup>Provision of awards by Department**

**51**<sup>F107</sup>.—(1) The Department may make—

- (a) awards to, or in respect of, persons in respect of their attendance at—
- (i) approved postgraduate courses at universities, colleges or other institutions; or
- (ii) other approved courses, being courses which, in the opinion of the Department, are comparable to postgraduate courses; and
- (b) such other awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them.

(2) Awards under this Article shall be of such amount, and be made to, or in respect of, such persons on such terms and conditions, as the Department may determine.]

- F106** 1996 NI 1
- F107** certain functions transf. by SR 1999/481

**[<sup>F108</sup>Provision of transport for, and payment of travelling expenses of, certain pupils**

**52**<sup>F109</sup>.—(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 <sup>F5</sup>the Authority] 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 <sup>F5</sup>the Authority] 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 <sup>F5</sup>the Authority] 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 <sup>F5</sup>the Authority] .

(6) With a view to assisting in the prevention of accidents, <sup>F5</sup>the Authority] may carry into effect such measures as may be set out in a scheme framed by <sup>F5</sup>the Authority] and approved by the Department.]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)  
**F108** 1997 NI 5  
**F109** certain functions transf. by SR 1999/481

### ***Provision of board and lodging otherwise than at school***

**53.**—(1) Where <sup>F5</sup>the Authority] is satisfied with respect to any pupil who has not attained the age of eighteen years <sup>F110</sup>...—

- (a) that primary or secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and
- (b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

<sup>F5</sup>the Authority] may provide such board and lodging for him.

(2) In providing board and lodging for a pupil under paragraph (1) <sup>F5</sup>the Authority] shall, as far as practicable, give effect to the wishes of the parent of the pupil with respect to the religious denomination of the person with whom he is to reside.

(3) Where <sup>F5</sup>the Authority] provides board and lodging under paragraph (1) for a pupil, the parent of the pupil shall, subject to paragraphs (4) and (5), pay to <sup>F5</sup>the Authority] the cost to <sup>F5</sup>the Authority] of providing the board and lodging.

(4) A board may remit the whole or part of the cost payable under paragraph (3).

(5) Paragraph (3) shall not apply where the board and lodging is provided for a pupil to facilitate special educational provision for him.

**Status:** Point in time view as at 25/03/2022.

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(6) Any sums payable to <sup>F5</sup>the Authority] by virtue of paragraph (3) may be recovered summarily by <sup>F5</sup>the Authority] as a debt due to it.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F110** Words in art. 53(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

***Payment of whole or part of cost of board and lodging otherwise than at school for pupils aged 18 and over***

**54.** Where <sup>F5</sup>the Authority] is satisfied with respect to any pupil who has attained the age of eighteen years <sup>F111</sup>...—

- (a) that secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and
- (b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

<sup>F5</sup>the Authority] —

- (i) shall, in any case where the board and lodging is provided for a pupil to facilitate special educational provision for him, pay the whole of the cost of such board and lodging;
- (ii) may, in any other case, pay the whole or part of the cost of such board and lodging.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F111** Words in art. 54 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*Art. 55 rep. by 1997 NI 15*

*Art. 56 rep. by 1989 NI 20*

**Provision of books and materials and payment of examination fees by boards**

*Para. (1) rep. by 1989 NI 20*

(2) A board may, with the approval of the Department, pay any necessary fees in connection with examinations taken by pupils attending any grant-aided school.

*Provision of food and clothing*

**Provision of milk, meals and related facilities**

**58.—**(1) A board shall, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at grant-aided schools, other than voluntary grammar schools<sup>F112</sup> and grant#maintained integrated schools<sup>F112</sup> ... ;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

*Para. (2) rep. by 1997 NI 15*

(3) A board may, with the consent of the proprietor of any independent school <sup>F113</sup>..., and on such financial and other terms, if any, as may be agreed between [<sup>F5</sup>the Authority] and the proprietor of the school, make arrangements for securing the provision of milk, meals or other refreshment for pupils in attendance at the school but any such arrangements shall be such as to secure, so far as is practicable, that the expense incurred by [<sup>F5</sup>the Authority] in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by it in the provision thereof if the pupil had been a pupil at a grant-aided school.

(4) A board may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine not being pupils for whom [<sup>F5</sup>the Authority] is required to make provision under paragraph (1) or may make provision under paragraph <sup>F114</sup> ... (3).

(5) The trustees or Board of Governors of a voluntary grammar school [<sup>F112</sup> and the Board of Governors of a grant-maintained integrated school]<sup>F112</sup> ... shall, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at the school;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

(6) The trustees or Board of Governors of a voluntary grammar school [<sup>F112</sup> and the Board of Governors of a grant-maintained integrated school]<sup>F112</sup> ... may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine, not being pupils for whom they are required to make provision under paragraph (5).

(7) A board may assist the trustees or Board of Governors of a voluntary grammar school [<sup>F112</sup> and the Board of Governors of a grant-maintained integrated school]<sup>F112</sup> ... in the carrying out of their functions under paragraphs (5) and (6).

<sup>F112</sup>(8) Where a school has a delegated budget under [<sup>F115</sup>Part VII of the Education (Northern Ireland) Order 1998] and an allowance is made for expenditure on, or in connection with, the provision of milk, meals or other refreshment in determining the school's budget share under that Part—

- (a) paragraph (1) shall not apply in relation to pupils in attendance at the school; but
- (b) paragraphs (5), (6) and (7) and Article 59 (except paragraph (4)) shall apply to the school as those provisions apply to a voluntary grammar school.]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F112** 1989 NI 20

**F113** Words in art. 58(3) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

**F114** 1997 NI 15

**F115** Words in art. 58(8) substituted (31.5.2009) by [Education \(Northern Ireland\) Order 1998 \(S.I. 1998/1759 \(N.I. 13\)\), arts. 1\(3\)\(g\), 91\(1\), Sch. 5 Pt. II](#); S.R. 2009/183, [art. 3\(d\)](#)

**Modifications etc. (not altering text)**

**C8** Art. 58 power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\), s. 87\(1\)](#), [Sch. 17 para. 17](#) (with ss. 88-90)

**Status:** Point in time view as at 25/03/2022.

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**C9** Art. 58 expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with s. 90)

### **Provisions supplementary to Article 58**

**59.**—(1) The approval of the Department to any arrangements under paragraph (1), <sup>F116</sup>... (4), (5) or (6) of Article 58 may be granted subject to such conditions for securing the proper and efficient operation of those arrangements as the Department may determine.

(2) [<sup>F117</sup>A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant-maintained integrated school]<sup>F117</sup>... shall in connection with the exercise of any functions under Article 58—

- (a) make such charges, if any, or charges calculated on such basis; and
- (b) remit the whole or part of such charges in such cases or such circumstances,

as the Department may determine.

(3) The Department may, in such circumstances as it thinks fit, [<sup>F117</sup> direct—

- (a) that paragraph (1) of Article 58 shall not apply to [<sup>F5</sup>the Authority];
- (b) that paragraph (5) of Article 58 shall not apply to the trustees or Board of Governors of a voluntary grammar school or to the Board of Governors of a grant-maintained integrated school.]

<sup>F117</sup> ... .

(4) [<sup>F117</sup>A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant-maintained integrated school]<sup>F117</sup>... shall take such steps and provide such premises, equipment, materials and facilities (including transport) as are necessary in connection with the provision of milk, meals or other refreshment in accordance with Article 58.

(5) The trustees and managers of every voluntary school, other than a voluntary grammar school <sup>F117</sup>... , shall afford [<sup>F5</sup>the Authority] all such reasonable facilities at the school, including the use of school buildings and equipment, as are necessary for the proper and efficient operation of any arrangements approved under Article 58.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F116** 1997 NI 15

**F117** 1989 NI 20

#### **Modifications etc. (not altering text)**

**C10** Art. 59 power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\), s. 87\(1\)](#), [Sch. 17 para. 17](#) (with [ss. 88-90](#))

**C11** Art. 59 expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with s. 90)

### **Provision of clothing etc. for pupils attending grant-aided schools or institutions of further education**

**60** <sup>F118</sup>.—(1) Subject to a scheme which shall be framed by [<sup>F5</sup>the Authority] and approved by the Department, where it appears to [<sup>F5</sup>the Authority] that a pupil at a grant-aided school or institution of further education, being a pupil of such description as is specified in the scheme, is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided

at the school or institution, [<sup>F5</sup>the Authority] shall provide such pupil with or contribute towards the cost of the provision of such clothing as is specified in the scheme and is in the opinion of [<sup>F5</sup>the Authority] necessary to ensure that he is adequately and suitably clad.

(2) A scheme under paragraph (1) shall also, subject to such conditions as are specified in the scheme, authorise [<sup>F5</sup>the Authority] to defray the expenses of such pupils attending the school or institution as are specified in the scheme being expenses which in the opinion of [<sup>F5</sup>the Authority] are necessary to enable those pupils to take part in the activities of the school or institution without hardship to themselves or to their parents.

(3) A board may, in accordance with the provisions of the scheme under paragraph (1), recover from the parent of a pupil the whole or part of the expenditure incurred under the scheme in respect of the pupil provided such recovery can be made without causing hardship to the parent.

(4) A parent who is aggrieved by any action taken by [<sup>F5</sup>the Authority] under a scheme under paragraph (1) may appeal to the Department whose decision shall be final.

(5) A board may lend to pupils without charge articles of clothing suitable for physical education.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)  
**F118** certain functions transf. by SR 1999/481

#### *Medical and dental inspection and medical examination*

#### **Facilities for medical and dental inspection, etc.**

**61.**—(1) Trustees and managers of grant-aided schools shall afford reasonable facilities for<sup>F119</sup> such inspection, supervision and education as is provided for under paragraph (1) or (1A) of Article 9 of the Health and Personal Social Services (Northern Ireland) Order 1972].  
*Para. (2) rep. by 1988 NI 24*

**F119** 1988 NI 24

#### ***Power of Department as to medical examination***

**62**<sup>F120</sup>.—(1) Where, in the opinion of the Department the examination of a child or young person by a person appointed by the Department for the purpose would assist it to determine any question referred to it under<sup>F121</sup> the Education Orders], the Department may, by notice in writing served on the parent of the child or young person, require the parent to submit the child or young person for such an examination.

(2) The parent of a child or young person examined under paragraph (1) shall be entitled to be present at the examination if he so desires.

(3) Where a parent on whom a notice is served under paragraph (1) fails without reasonable excuse to comply with the requirements of the notice, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

**F120** certain functions transf. by SR 1999/481  
**F121** 1989 NI 20

**Status:** Point in time view as at 25/03/2022.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## *Employment of children and young persons*

### ***Adaptation of enactments relating to the employment of children or young persons***

**63.**—(1) For the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Order over compulsory school age shall be deemed to be a child within the meaning of that enactment.

(2) Notwithstanding the provisions of any other enactment, a child may, to the like extent and subject to the like conditions as a young person be employed in employment in pursuance of arrangements made or approved by [F5the Authority] for the purpose of giving that child work experience as part of his education[F122 but may be so employed only—

- (a) in the school year in which he ceases to be of compulsory school age; and
- (b) in the school year immediately preceding that year.]

(3) In paragraph (2)—

*Definition rep. by 1993 NI 12*

*Definition rep. by 1998 NI 13*

[F122“school year” means a year ending on 31st July;]

“work experience” means the participation of children in employment in industrial, commercial, public authority and statutory undertakings, the object of which is to give to the children a greater understanding of the conditions, disciplines and relationships in those undertakings.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F122** 1998 NI 13

### ***Power of boards to prohibit or restrict employment of children***

**64.**—(1) If it appears to [F5the Authority] that a child who is a registered pupil at a school is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, [F5the Authority] may, by notice in writing served on the employer, prohibit him from employing the child or impose such restrictions on his employment of the child as appears to it to be expedient in the interests of the child.

(2) A board may, by notice in writing served on the parent or employer of a child who is a registered pupil at a school, require the parent or employer to furnish to [F5the Authority] , within such time as may be specified in the notice, such information as appears to [F5the Authority] to be necessary for the purpose of enabling it to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.

(3) Any person who employs a child in contravention of any prohibition or restriction imposed under paragraph (1) or who fails to comply with a notice served under paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(4) If it is made to appear to a court of summary jurisdiction on the complaint of an officer of [F5the Authority] that there is reasonable cause to believe that a child who is a registered pupil at a school is employed in contravention of a prohibition or restriction imposed under paragraph (1) in any place whether a building or not, the court may by order addressed to an officer of [F5the

Authority] empower him to enter such place at any reasonable time within forty-eight hours of the making of the order and to make inquiries therein with respect to the child.

(5) Any person who obstructs an officer of [<sup>F5</sup>the Authority] in the due exercise of any powers conferred on him by or under this Article or who refuses to answer or answers falsely any inquiry authorised by or under this Article to be made shall be guilty of an offence and liable on summary conviction in respect of each offence to a fine not exceeding level 2 on the standard scale.

(6) Proceedings under this Article may be brought by or in the name of an officer of [<sup>F5</sup>the Authority] .

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

## PART VI TEACHERS

### *Employment of teachers by [<sup>F5</sup>the Authority]*

**65.**—(1) A board may employ all such teachers as are required in schools<sup>F123</sup> . . . under its management and may, with the approval of the Department, employ teachers otherwise than on the staff of a particular school<sup>F123</sup> . . . .

(2) A teacher employed under paragraph (1) otherwise than on the staff of a particular school<sup>F123</sup> . . . shall be—

- (a) a teacher (to be called a “peripatetic teacher”) employed by [<sup>F5</sup>the Authority] to teach a particular subject or group of subjects in a number of schools<sup>F123</sup> . . . or otherwise than in a school<sup>F123</sup> . . . or a teacher employed by [<sup>F5</sup>the Authority] for the purpose of making special educational provision whether in a school or otherwise,<sup>F124</sup> . . .

*Sub#para. (b) rep. by 1993 NI 12*

[<sup>F125</sup>(3) The number of peripatetic teachers employed by [<sup>F5</sup>the Authority] and the purposes for which they are employed shall be in accordance with arrangements made by [<sup>F5</sup>the Authority] and approved by the Department and [<sup>F5</sup>the Authority] shall not employ such teachers otherwise than in accordance with arrangements so made and approved.

(4) Peripatetic<sup>F124</sup> . . . teachers employed by [<sup>F5</sup>the Authority] may, with the approval of [<sup>F5</sup>the Authority] , work in a voluntary school or a grant=maintained integrated school if so requested by the managers of that school.]

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F123** 1997 NI 15

**F124** 1993 NI 12

**F125** 1989 NI 20

**Status:** Point in time view as at 25/03/2022.

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### Training of teachers

**66.**—<sup>F126</sup>(1) The Department of Education shall make such arrangements as it considers expedient for securing the provision by others of sufficient facilities for the initial and further training of teachers for service in schools and other educational establishments in Northern Ireland.]

(2) <sup>F126</sup>The Department of Education] may—

- (a) <sup>F127</sup> pay grants at such rate or of such amount and subject to such conditions as it may determine in respect of expenditure incurred or to be incurred by any persons in connection with the initial or further training of teachers, other than expenditure in respect of which a grant may be paid under paragraph (3);
- (b) pay to teachers undergoing further training travelling and other allowances at such rate or of such amount and subject to such conditions as the Department may determine.

<sup>F126</sup>(2A) The Department for Employment and Learning may pay grants at such rate or of such amount and subject to such conditions as it may determine in respect of expenditure incurred or to be incurred by any person in connection with the initial or further training of teachers, other than expenditure in respect of which a grant may be paid under paragraph (3).]

(3) <sup>F127</sup> The Department may, in accordance with regulations, pay grants to the trustees of a college of education in respect of approved expenditure incurred or to be incurred for the provision or alteration of the premises of a college or for the provision of equipment for a college.

<sup>F128</sup>(4) <sup>F127</sup> Regulations under paragraph (3) may make provision for—

- (a) the repayment in such circumstances as are prescribed of the whole or part of any grant paid under this Article;
- (b) the reduction in such circumstances as are prescribed of the amount of grant which would otherwise be payable under this Article;
- (c) the payment to the Department by such person as may be prescribed of a sum where—
  - (i) any premises of a college of education in respect of which the Department has, at any time after 1st. August 1984, paid a grant under paragraph (3), cease to be used for approved purposes of a college of education; or
  - (ii) any site in respect of which the Department has, at any time after that date, paid a grant under paragraph (3), ceases, in the opinion of the Department, to be required for the purposes of a college of education.

(5) <sup>F127</sup> Without prejudice to the generality of paragraph (4), regulations under paragraph (3) may—

- (a) provide for any repayment, reduction or payment under the regulations to be of such amount as the Department considers equitable;
- (b) provide for any such repayment, reduction, or payment not to exceed such amount as may be determined under or in accordance with the regulations;
- (c) provide for any amount determined as mentioned in sub-paragraph (b) to include an amount in respect of interest calculated in such manner as may be prescribed; and
- (d) apply to grants made before as well as after the coming into operation of this paragraph.]

**F126** 2005 NI 13

**F127** certain functions transf. by SR 1999/481

**F128** 1993 NI 12



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**Modifications etc. (not altering text)**

**C12** Art. 66(2) modified (13.2.2006) by Higher Education (Northern Ireland) Order 2005 (S.I. 2005/1116 (N.I. 5)), arts. 1(3), 4(1)(a); S.R. 2006/30, art. 2

**Control of numbers, qualifications, etc. of students**

**67.**—(1 <sup>F129</sup> [<sup>F130</sup>The Department of Education]) shall make such arrangements as it considers expedient for the determination of the numbers and qualifications and for the selection of students to be admitted to the initial and further training of teachers.

(2) The managers or governing body of an institution providing courses for the initial or further training of teachers shall not admit a student to a course for the initial training of teachers unless satisfied—

- (a) as to his good character and health, his physical capacity for teaching and his suitability for the teaching profession in other respects; and
- (b) that he satisfies the minimum educational qualifications for the course determined under paragraph (1).

(3) The managers of a college of education<sup>F131</sup> . . . shall comply with any directions of the Department, given after consultation with them, as to—

- (a) the total number of students to be admitted in any period specified in the directions to all such courses provided by them;
- (b) the number of students to be admitted in any period specified in the directions to any particular course so specified; and
- (c) the discontinuance of any particular course so specified.

**F129** certain functions transf. by SR 1999/481

**F130** 2005 NI 13

**F131** 1997 NI 15

<sup>F132</sup>**Appointment of teachers**

**68.** The provisions of Parts I and II of Schedule 14 shall apply to the appointment of a teacher to a controlled school and the provisions of Part III of that Schedule shall apply to the appointment of a peripatetic teacher or a supply teacher.

**F132** prosp. rep. by 1989 NI 20

[<sup>F133</sup>**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;

*Sub#para. (b) rep. by 1997 NI 15*

**Status:** Point in time view as at 25/03/2022.

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- (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<sup>F134</sup> . . . , [<sup>F5</sup>the Authority]<sup>F135</sup> . . . ;
    - (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, [<sup>F5</sup>the Authority]<sup>F136</sup> . . . .
  - (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.
- Para. (8) rep. by 1998 NI 13]*

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F133** 1993 NI 12

**F134** 1997 NI 15

**F135** Words in art. 69(5)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F136** Words in art. 69(5)(e) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Payment of salaries, etc. of teachers**

**69A.** <sup>F137</sup> .....

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**F137** Art. 69A repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(h), 91(2)(3), Sch. 6 Pt. II; S.R. 2009/183, **art. 3(e)(i)**

<sup>F138</sup> **Regulations as to employment of teachers**

**70** <sup>F139</sup>.—(1) The Department may make regulations as to—

(a) the eligibility of persons to be employed as teachers; <sup>F140</sup> . . .

*Sub#para. (b) rep. by 1993 NI 12*

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

- (a) requiring teachers to have such qualifications as may be approved by the Department;
- (b) requiring that, subject to such exceptions as may be prescribed, only teachers recognised by the Department be employed as teachers and providing for the grant, suspension, withdrawal and restoration of such recognition;
- (c) requiring teachers to serve probationary periods;
- (d) imposing requirements as to the age, health and physical capacity of teachers;
- (e) prohibiting or restricting the employment or further employment of teachers<sup>F141</sup><sup>F142</sup> on medical grounds, on grounds of misconduct or on educational grounds]] .

[  
<sup>F143</sup>(2A) Regulations under paragraph (1) may provide for the payment by the Department of any reasonable expenses incurred by a teacher in connection with any medical examination undergone by that teacher in pursuance of a requirement imposed by the Department under those regulations.]

*Para. (3) rep. by 1993 NI 12*

(4) This Article applies to—

- (a) <sup>F144</sup> . . . . .
- (b) teachers in institutions of further education;
- (c) <sup>F145</sup> . . . . .

*Sub#para. (d) rep. by 1993 NI 12]*

**F138** 1987 NI 2  
**F139** certain functions transf. by SR 1999/481  
**F140** 1993 NI 12  
**F141** 2003 NI 4  
**F142** Words in art. 70(2)(e) substituted (12.10.2009) for heads (i) - (v) by virtue of Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)), arts. 1(3), 60(1), **Sch. 7 para. 2(1)** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch.  
**F143** 1989 NI 20  
**F144** Art. 70(4)(a) repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3), 91(2)(3), Sch. 6 Pt. II; S.R. 2009/183, **art. 3(e)(i)**  
**F145** Art. 70(4)(c) repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3), 91(2)(3), Sch. 6 Pt. II; S.R. 2009/183, **art. 3(e)(i)**

**Interchange of teachers with teachers outside Northern Ireland**

**71** <sup>F146</sup>. The Department may make regulations enabling teachers in grant-aided schools or institutions of further education or colleges of education to interchange duty with teachers from

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any country outside Northern Ireland and such regulations may, in connection with any period of interchange, make such provision as the Department considers appropriate in relation to such teachers as are specified in the regulations.

**F146** certain functions transf. by SR 1999/481

***Redundancy payments to teachers in certain voluntary schools and in grant#maintained integrated schools***

72. <sup>F147</sup> .....

**F147** Art. 72 repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(h), 91(2)(3), Sch. 6 Pt. II; S.R. 2009/183, **art. 3(e)(i)**

**<sup>F148</sup>PART VII**

**LIBRARY SERVICES**

**F148** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

***Provision of library services by boards***

73 <sup>F149</sup>.—(1) <sup>F150</sup> .....

(2) Without prejudice to the generality of paragraph (1), [<sup>F5</sup>the Authority] shall make library services available to grant-aided schools and other grant-aided educational establishments [<sup>F151</sup>(other than institutions of further education)] <sup>F152</sup>....

(3) <sup>F150</sup> .....

(4) <sup>F150</sup> .....

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F149** certain functions transf. by SR 1999/481  
**F150** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**  
**F151** 1997 NI 15  
**F152** Words in art. 73(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

***Development schemes***

74. <sup>F153</sup> .....

**F153** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

### **Standards of library premises**

75. <sup>F154</sup> .....

**F154** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

### **Contributions between boards in respect of library services**

76. <sup>F155</sup> .....

**F155** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

### **Charges for library services**

77. <sup>F156</sup> .....

**F156** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

### **Bye-laws in respect of use of library facilities**

78. <sup>F157</sup> .....

**F157** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

### **Interpretation of Part VII**

78A. <sup>F158</sup> .....

**F158** Pt. VII (arts. 73-78A) repealed (1.4.2009 for arts. 73(1)(3)(4), 74-78A and otherwise prosp.) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4; S.R. 2009/123, **art. 2(g)**

## **PART VIII**

### **ADMINISTRATION AND FINANCE**

#### *Administration*

#### **Payments to members of boards, etc.**

79.—(1) A board shall make payments by way of travelling allowance or subsistence allowance,<sup>F159</sup> . . . to any [<sup>F160</sup>person to whom this paragraph applies] who necessarily incurs expenditure on travelling or, as the case may be, subsistence for the purpose of enabling him to perform any duty specified in the conditions.

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[<sup>F159</sup>(1A) Payments under paragraph (1) shall be made at such rates and on such conditions as may be—

- (a) determined by [<sup>F5</sup>the Authority] ; and
- (b) approved by the Department.]

(2) Paragraph (1) shall apply to members of [<sup>F161</sup>, or of a committee of,]

- (a) a Board of Governors of a controlled school;
- (b) a Board of Governors of a maintained school;<sup>F162</sup> . . .

Sub#para. (c) rep. by 1997 NI 15

<sup>F163</sup> . . . .

<sup>F164</sup>(3) . . . . .

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F159** 2003 NI 12

**F160** Words in art. 79(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(12)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F161** 1989 NI 20

**F162** 1997 NI 15

**F163** Words in art. 79(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F164** Art. 79(3) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

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**Modifications etc. (not altering text)**

**C13** Art. 79(1) applied (27.7.2006 for certain purposes, otherwise 1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2)(3)(b), **25(11)** (with art. 26)

**Payments in respect of official visits, etc.**

<sup>F165</sup>**80.** . . . . .

**F165** Arts. 80-86 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Members of a board not to be employed as paid officers of the board**

<sup>F165</sup>**81.** . . . . .

**F165** Arts. 80-86 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**The Staff Commission**

<sup>F165</sup>**82.** . . . . .

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**F165** Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

### ***Officers of boards***

<sup>F165</sup>**83.** . . . . .

**F165** Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

### ***Loans to officers for purchase of motor cars and motor cycles***

<sup>F165</sup>**84.** . . . . .

**F165** Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

### ***Prohibition of acceptance of unauthorised fee or reward and duty to disclose pecuniary interest***

<sup>F165</sup>**85.** . . . . .

**F165** Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

### ***Insurance against risks by boards***

<sup>F165</sup>**86.** . . . . .

**F165** Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

### ***Protection for officers acting in execution of duty***

**87.**—(1) An officer of [<sup>F5</sup>the Authority] shall not be personally liable in respect of any act done by him in the execution of any statutory provision relating to a function of [<sup>F5</sup>the Authority] and within the scope of his employment if he acted reasonably and in the honest belief that his duty under the statutory provision required or empowered him to do it but nothing in this paragraph shall be construed as relieving [<sup>F5</sup>the Authority] of any liability in respect of acts of its officers.

(2) Where an action is brought against an officer of [<sup>F5</sup>the Authority] in respect of an act done by him in the execution or purported execution of any such statutory duty as aforesaid and the circumstances are such that he is not legally entitled to require [<sup>F5</sup>the Authority] to indemnify him, [<sup>F5</sup>the Authority] may nevertheless indemnify him against the whole or a part of any damages or costs which he may have been ordered to pay or may have incurred, if [<sup>F5</sup>the Authority] is satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under the statutory provision required or empowered him to do it.

*Status: Point in time view as at 25/03/2022.*

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**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

### ***Appointment of non-teaching staff for controlled and maintained schools***

**88.**—(1) Where it is necessary to appoint staff<sup>F166</sup> to which this paragraph applies for] a controlled school or a maintained school, [<sup>F5</sup>the Authority]<sup>F167</sup>... shall furnish to the Board of Governors of the school the names of all applicants for appointment whom [<sup>F5</sup>the Authority] considers to be qualified and the Board of Governors may select from the names so furnished to it the person or, where more than one person is to be appointed, the requisite number of persons whom it recommends for appointment and shall inform [<sup>F5</sup>the Authority] of the name or names of the person or persons so selected.

<sup>F166</sup>(1A) Paragraph (1) applies to all staff required<sup>F168</sup> by [<sup>F5</sup>the Authority]] in or about a controlled or maintained school, except—

- (a) teachers;
- (b) in the case of a school to which paragraph (1B) applies, persons employed in connection with the provision of a schools meals service.

(1B) This paragraph applies to a school which—

- (a) does not have a delegated budget under<sup>F169</sup>Part VII of the Education (Northern Ireland) Order 1998]; or
- (b) has such a budget, but no allowance is made for expenditure on or in connection with the provision of a school meals service in determining the school's budget share under that Part.]

(2) Where a Board of Governors informs [<sup>F5</sup>the Authority] of the name of the person or, as the case may be, the names of the requisite number of persons whom it has selected under paragraph (1), [<sup>F5</sup>the Authority] shall appoint that person or those persons.

(3) Where a Board of Governors to whom names of applicants are furnished under paragraph (1) fails within a reasonable time to inform [<sup>F5</sup>the Authority] of the name of the person or, as the case may be, the names of the requisite number of persons whom it recommends for appointment, [<sup>F5</sup>the Authority] may either—

- (a) seek further applications and comply again with paragraph (1); or
- (b) with the approval of the Department, appoint one or, as the case may be, the requisite number of persons from the qualified applicants.

(4) This Article shall not apply where, after consultation with the Board of Governors, [<sup>F5</sup>the Authority] is of opinion that a service or services for the internal or external maintenance of the premises of the school can best be provided—

- (a) by a person or group of persons employed by [<sup>F5</sup>the Authority] to perform that service or those services in a number of schools which are not all under the management of the same Board of Governors;
- (b) by the placing by [<sup>F5</sup>the Authority] of a contract, in accordance with its regular procedure for placing contracts, for the doing of anything relating to its functions in relation to a controlled school or a maintained school which is of a nature ordinarily done by employing a contractor.

(5) A Board of Governors aggrieved by any action of [<sup>F5</sup>the Authority] under paragraph (4) may refer the matter to the Department for determination.



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(6) The functions of a Board of Governors under this Article shall<sup>F166</sup> be carried out on behalf of, and in the name of, [<sup>F5</sup>the Authority] .

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F166** 1989 NI 20
- F167** Words in art. 88(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F168** 1997 NI 5
- F169** Words in art. 88(1B)(a) substituted (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, **art. 3(d)**

**<sup>F170</sup>Regulations as to employment of certain non#teaching staff**

**88A**<sup>F171</sup>.—(1) The Department may make regulations as to—

- (a) the eligibility for employment of persons to whom this Article applies; and
- (b) the terms and conditions of employment of such persons.

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

- (a) for imposing requirements as to the health and physical capacity of persons to whom this Article applies;
- (b) for prohibiting or restricting the employment or further employment of such persons<sup>F172</sup> on medical grounds or on grounds of misconduct].

(3) This Article applies to persons employed by [<sup>F5</sup>the Authority]<sup>F173</sup> or by the governing body of an institution of further education] or by the managers of [<sup>F174</sup> a grant#maintained integrated school or of] a voluntary school (other than a maintained school) in work otherwise than as teachers which brings them regularly into contact with persons who have not attained the age of nineteen years.]

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F170** 1987 NI 2
- F171** certain functions transf. by SR 1999/481
- F172** Words in art. 88A(2)(b) substituted (12.10.2009) for heads (i) - (iv) by virtue of Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)), arts. 1(3), 60(1), **Sch. 7 para. 2(2)** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch.
- F173** 1997 NI 15
- F174** 1989 NI 20

**Provision of residences by boards**

**89.**—(1) A board may, with the approval of the Department, provide and maintain or maintain a house or other residence for—

- (a) a teacher employed by [<sup>F5</sup>the Authority] ;
- (b) a caretaker, groundsman or other person employed by [<sup>F5</sup>the Authority] in connection with a school or institution managed by [<sup>F5</sup>the Authority] or a maintained school or any premises or property used by [<sup>F5</sup>the Authority] for educational purposes or purposes connected therewith;

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and for that purpose may erect a dwelling-house or other residence or acquire, and if necessary enlarge or improve, an existing dwelling-house or other residence.

(2) The trustees of a maintained school may, notwithstanding anything in any instrument of government of the school, lease part of the land used for the school to <sup>F5</sup>the Authority] for the purposes of paragraph (1)(b).

(3) Where <sup>F5</sup>the Authority] provides and maintains or maintains a house or residence under paragraph (1) <sup>F5</sup>the Authority] may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(4) Where <sup>F5</sup>the Authority] provides and maintains or maintains a house or residence under paragraph (1), <sup>F5</sup>the Authority] may permit the house or residence to be occupied by any person when it is not required for a person mentioned in paragraph (1) and may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(5) A board may, <sup>F175</sup>subject to paragraph (5A)], recover possession of any house or residence provided or maintained by it under the foregoing provisions of this Article and where the house or residence is vested in the Department may act on behalf of the Department in the recovery of such possession.

<sup>F175</sup>(5A) A board shall, before proceeding to recover possession of any house or residence provided and maintained or maintained as mentioned in paragraph (1)(a), give six months notice to the occupant.]

(6) Where <sup>F5</sup>the Authority] is entitled by virtue of paragraph (5) to recover possession of any premises, the following provisions shall have effect in relation to those premises—

- (a) the Rent (Northern Ireland) Order 1978 shall not apply;
- (b) <sup>F5</sup>the Authority] may, notwithstanding any enactment or rule of law and without prejudice to any other method of recovery, proceed under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981 for the summary recovery of the premises and for the purposes of any such proceedings that Part shall have effect as if <sup>F5</sup>the Authority] were the owner of the premises and the teacher or other person in possession thereof was a person who had been put into such possession by permission of the owner as caretaker.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)  
**F175** 1987 NI 2

**Teachers' residences provided etc. by statutory loan prior to 1st February 1922**

<sup>F176</sup>90. ....

**F176** Art. 90 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Art. 91 rep. by 1989 NI 20

**<sup>F177</sup>Use of spare capacity of computers of board**

<sup>F178</sup>91A]. ....

**F177** 1987 NI 2

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**F178** Art. 91A repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### **Power of boards as to research and conferences**

**F179** 92. ....

**F179** Art. 92 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### **Contributions to certain bodies**

**F180** 93. ....

**F180** Art. 93 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### **Making of bye-laws by boards**

**94.**—(1) It shall be the duty of [<sup>F5</sup>the Authority] to make bye-laws providing for any matter required by this Order to be so provided and to enforce bye-laws made by it under this Order.

(2) Bye-laws made under this Order may provide for the imposing on persons contravening the bye-laws reasonable fines, recoverable on summary conviction, not exceeding level 2 on the standard scale and in the case of a continuing offence £2 for each day on which the offence continues after conviction.

(3) A bye-law made under this Order shall not come into operation until it has been confirmed by the Department.

(4) A board not less than one month before submitting a proposed bye-law for the confirmation of the Department shall—

- (a) deposit a draft of the proposed bye-law at the headquarters of [<sup>F5</sup>the Authority] and at such other place or places as the Department may direct;
- (b) publish notice of the deposit in accordance with the provisions of Article 129;
- (c) permit any person to inspect the deposited copy at all reasonable times without payment;
- (d) furnish to any person, on application, a copy of the proposed bye-law, or of any part thereof, on payment of such reasonable sum as [<sup>F5</sup>the Authority] may determine.

(5) The Department before confirming a bye-law shall be satisfied that the provisions of paragraph (4)(a) and (b) have been complied with and shall cause such inquiry, if any, to be made <sup>F181</sup>... as the Department thinks requisite.

(6) A copy of bye-laws when confirmed shall be printed and deposited at the headquarters of [<sup>F5</sup>the Authority]<sup>F182</sup>... and in such other place or places as the Department may direct and shall at all reasonable hours be open to public inspection without payment and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as [<sup>F5</sup>the Authority] determines.

(7) A copy of any bye-law made by [<sup>F5</sup>the Authority] under this Order certified and signed by the [<sup>F183</sup> chief executive] of [<sup>F5</sup>the Authority] or, in his absence, such other officer as [<sup>F5</sup>the Authority] authorises to be a true copy and to have been duly confirmed shall, until the contrary is proved, be

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evidence in all legal proceedings of the due making, confirmation and existence of such bye-law without further or other proof.

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F181** Words in art. 94(5) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F182** Words in art. 94(6) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F183** 1989 NI 20

***Admission of public to, and facilities for newspaper representatives at, meetings of boards***

**F184**95. ....

- F184** Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

***Notice and information to be given as to meetings of boards***

**F184**96. ....

- F184** Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

***Certain publications to be privileged***

**F184**97. ....

- F184** Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

***Inspection of minutes of proceedings of boards***

**F184**98. ....

- F184** Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

***Determination of disputes between boards***

**F184**99. ....

- F184** Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### <sup>F185</sup>**Determination of disputes**

**100.** Any dispute arising between—

- (a) <sup>F5</sup>the Authority] and the trustees or managers of a voluntary school;
- (b) <sup>F5</sup>the Authority] and the Board of Governors of a grant#maintained integrated school;
- <sup>F186</sup>(bb) <sup>F187</sup> <sup>F5</sup>the Authority] and the governing body of an institution of further education;]
- (c) <sup>F5</sup>the Authority] and the Council for Catholic Maintained Schools; or
- (d) the Council for Catholic Maintained Schools and the trustees or managers of a Catholic maintained school,

with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent on the opinion of one of the parties to the dispute, be referred by either party to the dispute to the Department and any dispute so referred shall be determined by the Department whose determination shall be final.]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F185** 1989 NI 20

**F186** 1997 NI 15

**F187** certain functions transf. by SR 1999/481

### <sup>F188</sup>**Power of Department to give directions**

**101** <sup>F189</sup>—(1) The Department may give directions to any relevant authority as to the exercise by that authority of any power conferred, or the performance of any duty imposed, on that authority by or under any provision of the Education Orders; but the Department shall consult with a relevant authority before giving any directions to the authority under this paragraph.

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may—

- (a) require a specified power—
  - (i) to be exercised;
  - (ii) to be exercised in a specified manner;
  - (iii) not to be exercised;
  - (iv) not to be exercised in a specified manner;
- (b) require a specified duty—
  - (i) to be performed;
  - (ii) to be performed in a specified manner;
  - (iii) not to be performed in a specified manner;

and in this paragraph “specified” means specified in directions.

(3) In this Article “relevant authority” means any of the following, namely—

- (a) <sup>F5</sup>the Authority] ;
  - (b) the Board of Governors or trustees of a grant#aided school;
- Sub#para. (c) rep. by 1993 NI 12*

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- (d) the governing body of an institution of further education;
- (e) the managers or trustees of a college of education;
- (f) the Council for Catholic Maintained Schools;

[ the Northern Ireland Council for the Curriculum, Examinations and Assessment.]  
<sup>F190</sup>(g)

(4) If, on a complaint made to it by any person or body, the Department is satisfied that a relevant authority has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the Education Orders, the Department shall give such directions under paragraph (1) as to the exercise of the power or the performance of the duty as appear to the Department to be expedient to remedy that complaint.

(5) Directions may be given to a relevant authority under paragraph (1) notwithstanding any provision of the Education Orders rendering the exercise of the power or the performance of the duty contingent upon the opinion of that authority.

(6) It shall be the duty of a relevant authority to comply with any directions given to the authority under paragraph (1) and any such directions may be enforced by mandamus.

(7) Where the Department is satisfied that a relevant authority has failed to comply with any directions given to the authority under paragraph (1), the Department may make an order appointing a person or persons to discharge, in the name of the relevant authority, all the functions of the authority or such functions as may be specified in the order and the order may render valid any act, thing or payment which would otherwise be invalid by reason of any default by the authority.

(8) So long as an order under paragraph (7) remains in force the functions of the relevant authority or such functions as are specified in the order shall be performed by the person or persons appointed by the order and shall not be performed by the authority.

(9) The remuneration and expenses of a person or persons appointed by an order made under paragraph (7) shall be determined by the Department and shall together with any other sums expended by the Department in consequence of the order be defrayed as part of the expenses of the relevant authority under the Education Orders.

(10) The Statutory Rules (Northern Ireland) Order 1979 shall not apply to any order made under paragraph (7).

[  
<sup>F191</sup>(11) In relation to the managers or trustees of a college of education the functions of the Department under this Article are exercisable by the Department for Employment and Learning (as well as by the Department of Education).]]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F188** 1989 NI 20

**F189** certain functions transf. by SR 1999/481

**F190** 1993 NI 12

**F191** 2005 NI 13

**Modifications etc. (not altering text)**

**C14** Art. 101 applied (1.1.2007) by [Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), [reg. 11\(2\)](#) (with [regs. 5\(4\)](#), [16\(3\)\(4\)](#), [26](#), [49](#), [53](#), [54\(1\)](#))

## [<sup>F192</sup>Inspection of educational and other establishments by Department

**102** <sup>F193</sup>—(1) Every relevant establishment shall be open at all reasonable times to inspection under this Article.

(2) In this Article and Article 102A “relevant establishment” means—

(a) a school;

[ an institution of further education;]

<sup>F194</sup>(aa)

(b) a college of education;

(c) a grant=aided institution or establishment; or

(d) an institution or establishment which is established, maintained or managed by [<sup>F5</sup>the Authority] or the activities of which are organised by [<sup>F5</sup>the Authority] .

(3) Inspections under this Article shall be conducted by—

(a) inspectors appointed by the Department; or

(b) other officers of the Department.

(4) Inspectors conducting the inspection of an establishment under this Article may be accompanied and assisted in the inspection by a lay person assigned for the purposes of that inspection under Article 102A.

(5) It shall be the duty of inspectors to promote the highest standards of education and of professional practice among teachers in relevant establishments which provide education by—

(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;

(b) advising the Department on any aspect of the curriculum of any of those establishments which the Department may refer to them or on which they think advice is appropriate.

(6) It shall be the duty of inspectors to monitor, inspect and report on the nature, scope and effect of advisory and support services provided by boards under Article 29 of the 1989 Order in relation to the curricula and staff of grant#aided schools.

[

<sup>F194</sup>(6A) Inspectors conducting the inspection of an establishment under this Article may monitor, inspect and report on any other aspect of the establishment including, in particular, the management of the establishment and the staffing, equipment, accommodation and other resources of the establishment.]

(7) The functions conferred by this Article on inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a school under [<sup>F195</sup>Article 5(1)(a) of the Education (Northern Ireland) Order 2006] except with the agreement of the Board of Governors of the school.

(8) The Department may give directions under Article 101 for the purpose of remedying any matter referred to in a report under this Article.]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F192** 1996 NI 1

**F193** certain functions transf. by SR 1999/481

**F194** 1997 NI 15

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**F195** Words in art. 102(7) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 5**

### Lay persons

**102A** <sup>F196</sup>.—(1) The Department may appoint a panel of persons to act as lay persons in inspections conducted under Article 102.

(2) A person shall not be appointed to the panel unless he is, in the opinion of the Department, without significant personal experience in the management of relevant establishments and the provision of education (otherwise than as a member of the managing body of such an establishment or in any other voluntary capacity).

(3) The Department may remove a person from the panel at any time.

(4) The Department may assign a member of the panel to be a lay person for the purposes of an inspection of any relevant establishment to be conducted under Article 102 but shall ensure that no person is so assigned if he has, or at any time had, any connection with—

- (a) the establishment in question;
- (b) any person who is employed at that establishment;
- (c) any person who is a member of the managing body of that establishment;
- (d) where the establishment is an independent school, the proprietor of the school,

of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to that establishment.

(5) The Department may, with the approval of the Department of Finance and Personnel, pay to members of the panel such allowances and expenses as the Department may determine.

(6) In this Article “managing body” means—

- (a) in relation to a school, the Board of Governors;
- (b) in relation to an institution of further education, the governing body;
- (c) in relation to any other relevant establishment, the body responsible for its management.

**F196** certain functions transf. by SR 1999/481

*Art. 103 rep. by 2003 NI 12*

*Art. 104 rep. by 1987 NI 2*

### Acquisition by Department of land

**105** <sup>F197</sup>.—(1) The Department may by agreement, or in accordance with paragraph (4) otherwise than by agreement, acquire any land which in its opinion is required for use by it for the purposes of <sup>F198</sup> the Education Orders] and any land held by it for those purposes may, if in its opinion it is no longer required for those purposes, be disposed of by it in such manner and on such terms and conditions as the Department considers expedient or be appropriated by it for other purposes of the Department.

(2) Paragraph (1) shall not enable the Department to dispose of any land on terms other than the best obtainable except with the approval of the Department of Finance and Personnel.

(3) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (which contains provisions with respect to the disposal of land by government departments) shall not apply to the disposal of any land under paragraph (1) or paragraph (11).



(4) Where the Department desires for the purposes of [F198 the Education Orders] to acquire land otherwise than by agreement, it may, subject to paragraphs (9) and (10), make a vesting order vesting the land in the Department and Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Part I of Schedule 16 apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in like manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(5) Any person authorised by the Department in writing stating the particular purpose or purposes for which entry is authorised may at all reasonable times, on giving three days prior notice of his intention to the occupier, enter for the purpose of survey, valuation or examination—

- (a) land which the Department proposes to acquire compulsorily under the powers conferred on it by this Article; and
- (b) any land, where it appears to the Department that survey, valuation or examination is necessary in order to determine whether any powers under this Article should be exercised in respect of that land.

(6) If any person, other than the owner or occupier of land entered under paragraph (5), obstructs a person authorised as aforesaid in the performance of anything which such person is required or authorised to do, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) If any person being the owner or occupier of land prevents a person authorised as aforesaid from duly carrying into effect any survey, valuation or examination of such land, any court of summary jurisdiction on proof thereof may order the first-mentioned person to permit to be done on such land all things requisite for carrying into effect such survey, valuation or examination and if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding £20.

(8) Where any property is damaged in the exercise of a right of entry conferred under this Article or in the making of any survey or examination for the purpose of which any such right of entry has been conferred, compensation in respect of that damage may be recovered from the Department by any person interested in the property and any question of disputed compensation shall be referred to and determined by the Lands Tribunal for Northern Ireland.

(9) Nothing in this Article shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is to the knowledge of the Department any historic monument or archaeological object within the meaning of [F199 the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

(10) The powers to make a vesting order under this Article may be exercised over land—

- (a) which is the property of any body established by or under any transferred provision which has power under any transferred provision to acquire land compulsorily; or
- (b) which is declared by or under any transferred provision to be inalienable;

but a vesting order shall not be made in relation to any such land, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, unless the proposal has been approved by a resolution of the Assembly.

(11) The Department may transfer to another Department of the Government of Northern Ireland or to [F5 the Authority][F200 or to the governing body of an institution of further education] any land acquired by it under this Article or vested in it by Article 94(1) of the 1972 Order.

(12) Stamp duty shall not be payable on any instrument or other document executed for the purpose of transferring land from the Department under paragraph (11).

(13) A certificate of the Department that land has been transferred to it by Article 94(1) of the 1972 Order or transferred by the Department under paragraph (11) shall be evidence of such transfer and, upon lodgment of such a certificate, the certificate shall be registered in the Registry of Deeds

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or, in the case of registered land, the title to which the certificate relates shall be registered in the Land Registry.

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F197** certain functions transf. by SR 1999/481
- F198** [1989 NI 20](#)
- F199** [1995 NI 9](#)
- F200** [1997 NI 15](#)

### ***Functions of boards in relation to land***

**106**<sup>F201</sup>.—(1) A board may, with the approval of the Department but not otherwise, acquire, hold or dispose of land and shall if the Department so directs transfer to the Department any land held by it.

(2) Where [<sup>F5</sup>the Authority] desires to acquire otherwise than by agreement any land which it considers necessary for the purposes of [<sup>F202</sup>the Education Orders] or which it considers is required for the purposes of a maintained school or for the purposes of a voluntary grammar school<sup>F203</sup> in relation to which an agreement under paragraph 1(1) of Schedule 6 is in force<sup>F202</sup>. . . . , [<sup>F5</sup>the Authority] may apply to the Department for an order vesting such land in [<sup>F5</sup>the Authority] and the Department shall have power to make such an order and Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Part II of Schedule 16, apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in like manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(3) Where land acquired otherwise than by agreement for the purposes of a voluntary school is disposed of by [<sup>F5</sup>the Authority] to the trustees or Board of Governors of the school, the land shall vest in those trustees or Board of Governors subject to such conditions, including provision for the reversion of the land in [<sup>F5</sup>the Authority] in the event of the land not being, or not continuing to be, used or required for approved purposes of that school, as [<sup>F5</sup>the Authority] may, with the approval of the Department, determine.

(4) Paragraphs (5) to (10) of Article 105 shall apply for the purposes of this Article as they apply for the purposes of that Article and in their application for the purpose of this Article—

(a) references to the Department<sup>F204</sup>... shall be construed as including references to [<sup>F5</sup>the Authority]<sup>F204</sup>...;

(b) references to that Article shall be construed as references to this Article.

(5) The board shall not, under paragraph (1), dispose of any land gratuitously, or at either a price or rent other than the best obtainable, or on terms other than the best obtainable unless the approval of the Department is obtained.

(6) The Department may empower [<sup>F5</sup>the Authority] to act on its behalf in the acquisition, holding or disposal of land and [<sup>F5</sup>the Authority] shall manage and maintain, and may provide any buildings required for the purposes of [<sup>F202</sup>the Education Orders] on, such land held by the Department as the Department may approve.

(7) A board, notwithstanding that it is exercising functions on behalf of the Department under paragraph (6), shall be entitled to enforce any rights acquired and shall be liable in respect of any liabilities incurred (including liabilities in tort) in the exercise of those functions in all respects as if it were acting as principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against [<sup>F5</sup>the Authority] in its own name.

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- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F201** certain functions transf. by SR 1999/481
- F202** 1989 NI 20
- F203** 1993 NI 12
- F204** Words in art. 106(4)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

### ***Transfer to board of certain assets of Department***

**107.**—(1) The Department may, where it thinks fit, transfer to [<sup>F5</sup>the Authority] any assets or liabilities [<sup>F205</sup>to which it is for the time being entitled or subject to for the purposes of the Education Orders] .

(2) The transfer to the Department <sup>F206</sup>... of an endowment or other charitable gift shall be effective notwithstanding any provision to the contrary in any instrument making the endowment or gift but the Department shall, so far as practicable, ensure that the benefits accruing from any such endowment or gift are applied for the purposes for which the endowment or gift was made.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F205** Words in art. 107(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(13)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F206** Words in art. 107(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*Art. 108 rep. by 2005 c. 12*

### ***Power of Head of the Department to appoint advisory bodies or committees***

**109** <sup>F207</sup>. The Head of the Department may appoint such advisory bodies or committees as he considers necessary to assist the Department in the exercise and performance of the functions conferred on the Department by [<sup>F208</sup> the Education Orders].

- F207** certain functions transf. by SR 1999/481
- F208** 1989 NI 20

### ***Conduct of examinations by Department***

**110.** The Department may conduct such examinations as it considers necessary for the purposes of the statutory system of public education.

## *Finance*

### ***Power of boards to accept gifts***

**111.**—(1) Subject to paragraph (2), [<sup>F5</sup>the Authority] may be constituted trustees for any endowment or charity for the purposes of any of its functions under [<sup>F209</sup> the Education Orders] whether the endowment was established before or after the date of the coming into operation of this

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Article and, subject to Article 106, [<sup>F5</sup>the Authority] shall have power to accept any real or personal property given to it as an endowment or upon trust for any of the aforesaid purposes.

(2) Paragraph (1) shall not enable [<sup>F5</sup>the Authority] to be trustees for or to accept any endowment, charity or trust, the purposes of which are inconsistent with the provisions of [<sup>F209</sup> the Education Orders] or the principles on which [<sup>F5</sup>the Authority] is required to conduct schools provided by it.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F209** 1989 NI 20

**Borrowing powers of boards**

<sup>F210</sup>**112.** . . . . .

**F210** Art. 112 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*Art. 113 rep. by 2003 NI 12*

*Art. 114 rep. by 2003 NI 12*

**[<sup>F211</sup>Grants for educational or library services, etc.**

**115** <sup>F212</sup>—<sup>F213</sup>(1) Subject to paragraph (3), the Department may, in accordance with regulations made with the approval of the Department of Finance and Personnel, pay grants to persons in respect of expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of—
  - (i) educational <sup>F214</sup>. . . services; or
  - (ii) recreational, social, cultural, physical or youth service activities or services ancillary to education;
- (b) for the purposes of research relevant to the functions of the Department or of boards under the Education Orders.

(2) Regulations under paragraph (1) may prescribe the rates of grants which may be paid under that paragraph.

(3) The Department shall not pay grants under this Article to—

- (a) [<sup>F5</sup>the Authority] ; or
- (b) the trustees or managers of—
  - (i) a voluntary school; or
  - (ii) a grant#maintained integrated school.

[<sup>F215</sup>or]

[ the governing body of an institution of further education;]

<sup>F215</sup>(c)

(4) Paragraph (5) applies where—

- (a) the Department has, after the coming into operation of Article 159 of the 1989 Order, paid a grant under this Article to a person in respect of expenditure incurred or to be incurred by him for the provision or alteration of premises; and

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(b) those premises cease to be used for approved purposes.

(5) Where this paragraph applies there shall be payable to the Department by the person to whom the grant was paid or his successor in title such sum as the Department considers equitable but not exceeding such proportion of the value of the premises as the proportion that the amount of the grant was of the approved cost of the provision or alteration of the premises together with interest on that sum from the date on which the premises ceased to be used for approved purposes until the date of payment to the Department.

(6) For the purposes of paragraph (5) the value of premises shall be taken to be the amount which the premises might be expected to realise if sold in the open market on the date on which the premises ceased to be used for approved purposes and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value may be referred to and determined by the Lands Tribunal for Northern Ireland.

(7) For the purposes of paragraph (5) interest shall be at such rate as may from time to time be determined by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972.

(8) Any sum payable or repayable to the Department under this Article may be recovered as a debt due to the Department.]

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F211** 1989 NI 20
- F212** certain functions transf. by SR 1999/481
- F213** for certain purposes functions transf. by SR 2001/229
- F214** Words in art. 115(1)(a)(i) repealed (1.4.2009) by [Libraries Act \(Northern Ireland\) 2008 \(c. 8\), ss. 10\(2\), 12\(2\), Sch. 4](#); S.R. 2009/123, [art. 2\(g\)](#)
- F215** 1997 NI 15

**Building and equipment grants for voluntary schools**

**116.** <sup>F216</sup> .....

- F216** Art. 116 repealed (31.5.2009) by [Education \(Northern Ireland\) Order 1998 \(S.I. 1998/1759 \(N.I. 13\)\)](#), [arts. 1\(3\)\(h\), 91\(2\)\(3\)](#), [Sch. 6 Pt. II](#); S.R. 2009/183, [art. 3\(e\)\(i\)](#)

*Arts. 117, 118 rep. by 1989 NI 20*

*Art. 119 rep. by 2003 NI 12*

**[<sup>F217</sup>Recovery by Department of certain premature retirement compensation costs**

**119A.**—(1) Where the Department becomes liable to pay premature retirement compensation in relation to a member of the staff of a special school, the Department may, where there appears to the Department to be good reason to do so, direct that—

- (a) a specified amount shall be charged to [<sup>F218</sup>the Authority] in any single specified financial year; or
- (b) a specified amount shall be charged to [<sup>F219</sup>the Authority] in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that member of staff.

(2) In paragraph (1)—

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F220  
...

“specified” means specified in directions under that paragraph.

(3) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount charged to [F5the Authority] in pursuance of a direction given under paragraph (1) in relation to a member of the staff of a special school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department's liability to pay premature retirement compensation to, or in respect of, that member of staff.

(4) Where [F5the Authority] becomes liable to pay premature retirement compensation in relation to a member of the staff of—

(a) a controlled school which does not have a delegated budget under[F221Part VII of the Education (Northern Ireland) Order 1998],<sup>F222</sup> . . .

*Sub#para. (b) rep. by 1997 NI 15*

the Department may, where there appears to the Department to be good reason to do so, direct that—

(i) a specified amount shall be charged to [F5the Authority] in any single specified financial year; or

(ii) a specified amount shall be charged to [F5the Authority] in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of [F5the Authority] in relation to that member of staff.

(5) In paragraph (4) “specified” means specified in directions under that paragraph.

(6) For the purposes of paragraph (4)—

(a) a controlled school does not have a delegated budget during any period when the right of the Board of Governors of that school to such a budget is suspended under[F223Article 55 of the Education (Northern Ireland) Order 1998];

*Sub#para. (b) rep. by 1997 NI 15*

(7) The amount or (in a case falling within sub-paragraph (ii) of that paragraph) the total amount charged to [F5the Authority] in pursuance of a direction given under paragraph (4) in relation to a member of the staff of a school<sup>F222</sup>. . . shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging [F224the Authority's] liability to pay premature retirement compensation to, or in respect of, that member of staff.

(8) Where the Department becomes liable to pay premature retirement compensation in relation to a person employed otherwise than at a grant-aided school<sup>F222</sup>. . . , the Department may, where there appears to the Department to be good reason to do so, direct that—

(a) a specified amount shall be charged to the employer of that person in any single specified financial year; or

(b) a specified amount shall be charged to the employer of that person in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that employee.

(9) In paragraph (8) “specified” means specified in directions under that paragraph.

(10) The amount or (in a case falling within sub-paragraph (b) of that paragraph), the total amount charged to an employer in pursuance of a direction given under paragraph (8) in relation to an employee shall not exceed such amount as appears to the Department to represent the cost,

capitalised as of the date on which the direction is given, of discharging the Department's liability to pay premature retirement compensation to, or in respect of, that employee.

(11) Any amount charged by the Department to [F5the Authority] or an employer under this Article in any financial year shall be payable by [F5the Authority] or employer to the Department at such time or times and in such manner as the Department may direct.

(12) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991;

“premature retirement compensation costs of [F5the Authority]”, in relation to any person, means the costs incurred or to be incurred by [F5the Authority] in paying premature retirement compensation to, or in respect of, that person;

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.]

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F217** 1993 NI 12
- F218** Words in art. 119A(1)(a) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 9(14)** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F219** Words in art. 119A(1)(b) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 9(14)** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F220** Words in art. 119A(2) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F221** Words in art. 119A(4)(a) substituted (31.5.2009) by [Education \(Northern Ireland\) Order 1998 \(S.I. 1998/1759 \(N.I. 13\)\)](#), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, **art. 3(d)**
- F222** 1997 NI 15
- F223** Words in art. 119A(6) substituted (31.5.2009) by [Education \(Northern Ireland\) Order 1998 \(S.I. 1998/1759 \(N.I. 13\)\)](#), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, **art. 3(d)**
- F224** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(b)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

*Part IX (Arts. 120#126) rep. by 1989 NI 20*

## PART X

### MISCELLANEOUS AND GENERAL

#### Transfer of certain institutions to Department

**127.**—(1) Any person managing an institution to which the Literary and Scientific Institutions Act 1854 applies may, whether or not the land on which such institution is situated is vested in him, make an arrangement under Schedule 9 for the transfer of the institution to the Department and the Department may assent and give effect to any such arrangement.

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(2) For the purposes of paragraph (1), Schedule 9 shall have effect as if references to a school included references to an institution to which the Literary and Scientific Institutions Act 1854 applies.

(3) The Department may transfer to <sup>F5</sup>[the Authority] any institution transferred to it under this Article.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**Use of land provided or maintained under this Order**

**128.** Land provided or maintained for any of the purposes of <sup>F225</sup>[the Education Orders] may be used for any of the other purposes of <sup>F225</sup>[the Education Orders] or for any of the purposes of the <sup>F226</sup>Recreation and Youth Service (Northern Ireland) Order 1986] <sup>F227</sup>[Youth Service (Northern Ireland) Order 1989].

**F225** 1989 NI 20  
**F226** 1986 NI 25  
**F227** 1989 NI 22

**Publication of notices**

**129.**—(1) Notices and other matters required to be published under <sup>F228</sup>[the Education Orders] shall, when no particular method is provided or indicated, be published either by advertisement in newspapers, or in such other manner as the Department may either generally or with respect to any particular area, place or notice, or class of area, place or notice, direct as being in its opinion sufficient for giving information to all persons interested.

(2) If any person wilfully removes, injures or defaces any notice exhibited in pursuance of <sup>F228</sup>[the Education Orders] he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**F228** 1989 NI 20

**Service of notices on, and authentication of notices by, boards**

<sup>F229</sup>**130.** . . . . .

**F229** Art. 130 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Evidence of documents**

**131.** In any legal proceedings, a document purporting to be—

<sup>F230</sup>(a) . . . . .

(b) an extract from the minutes of the proceedings at any meeting of the <sup>F231</sup>Board of Governors of a grant#aided school and to be signed by the chairman or secretary of the Board of Governors];



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(c) a certificate giving particulars of the attendance of a child at a school and to be signed by the principal of the school; or

(d) a certificate issued by a medical officer and to be signed by such an officer;

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to be signed by the person by whom it purports to have been signed without proof of his identity, signature or official capacity, and such extract or certificate as is mentioned in paragraph (b), (c) or (d) shall be evidence of the matters stated therein.

**F230** Art. 131(a) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

**F231** 1987 NI 2

### <sup>F232</sup>Exceptions for schools established in hospitals

**131A.**—(1) The provisions of this Order listed in paragraph (2) shall not apply in relation to a school established in a hospital.

(2) The provisions referred to in paragraph (1) are Articles 18, 21, 22, 48, 49, 58, 60 and 61.]

**F232** 1993 NI 12

### Amendments

**132.**—(1) A reference in any enactment to a local education authority shall unless this Order or the context of the enactment otherwise requires be construed as a reference to <sup>F5</sup>the Authority].  
*Para. (2)—Amendments*

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

### Transitional and saving provisions

**133.**—(1) The transitional provisions set out in Schedule 19 shall have effect.

<sup>F233</sup>(2) No power or duty conferred or imposed by this Order on the Department or boards or parents shall be construed as relating to any person who is detained in pursuance of an order made by any court.]

**F233** 1987 NI 2

### Regulations

**134** <sup>F234</sup>.—<sup>F235</sup>(1) The Department may make all such regulations as it is required or empowered to make under<sup>F236</sup> the Education Orders] or as appear to it to be necessary or proper for giving full effect to<sup>F236</sup> the Education Orders].

(2) All regulations under this Order shall be subject to negative resolution.

**F234** certain functions transf. by SR 1999/481

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**F235** for certain purposes functions transf. by SR 2001/229

**F236** 1993 NI 12

*Article 135—Repeals*

**Status:** Point in time view as at 25/03/2022.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### <sup>F237</sup>SCHEDULE 1

Article 3(2).

#### NAMES AND AREAS OF EDUCATION AND LIBRARY BOARDS

**F237** Schs. 1-3 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

### <sup>F237</sup>SCHEDULE 2

Article 3(4), (5).

### <sup>F237</sup>SCHEDULE 3

Article 4(2)

### SCHEDULE 4

Article 10(3)

#### MEMBERSHIP OF BOARD OF GOVERNORS OF CONTROLLED SCHOOLS

1.—(1) The Board of Governors of one or more than one controlled school shall consist of—

(a) such number of persons (in this Schedule referred to as “voting members”) as [<sup>F5</sup>the Authority] may, subject to paragraphs 2 to 5, determine;<sup>F238</sup> . . .

(b) the principal of the school, or each of the schools, who, subject to sub-paragraph (2), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

[<sup>F238</sup>(c) persons co#opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.]

(2) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**Status:** Point in time view as at 25/03/2022.

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**F238** 1989 NI 20

*Controlled primary schools (other than nursery or integrated schools)*

2.—(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of one or more than one controlled primary school, other than a controlled nursery school or controlled integrated primary school.

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

- (a) four shall be nominated by the transferors and superseded managers of the school or schools;
- (b) two shall be elected by parents of [<sup>F239</sup>registered pupils at] the school or schools from amongst the parents of such pupils;
- (c) two shall be chosen by [<sup>F5</sup>the Authority]<sup>F240</sup> ...;
- (d) one shall be elected by assistant teachers at the school or schools from amongst such assistant teachers.

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, subparagraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d), of that subparagraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F239** Words in Sch. 4 para. 2(2)(b) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(a)**; S.R. 2007/197, **art. 2(a)**

**F240** Words in Sch. 4 para. 2(2)(c) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*[Controlled secondary schools (other than controlled grammar or integrated schools or technical secondary schools)]*

**Modifications etc. (not altering text)**

**C15** 1989 NI 20

3.—(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of a controlled secondary school, other than a controlled grammar or integrated school<sup>F241</sup> . . . ]

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

- [<sup>F242</sup>(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) two shall be elected by parents of [<sup>F243</sup>registered pupils at] the school from amongst parents of such pupils;
- (c) two shall be chosen by [<sup>F5</sup>the Authority]<sup>F244</sup> ...;
- (d) one shall be elected by assistant teacher at the school from amongst such assistant teachers.

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[<sup>F242</sup>(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).]

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F241** 1997 NI 15
- F242** 1997 NI 5
- F243** Words in Sch. 4 para. 3(2)(b) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(a)**; S.R. 2007/197, **art. 2(a)**
- F244** Words in Sch. 4 para. 3(2)(c) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

[<sup>F245</sup>Controlled grammar schools (other than controlled integrated grammar schools)]<sup>F246</sup>, controlled nursery schools (other than controlled integrated nursery schools)] and special schools

- F245** 1989 NI 20
- F246** 1998 NI 13

4. There shall be 8, 16 or 24 voting members appointed to the Board of Governors of a controlled grammar school (other than a controlled integrated grammar school), a controlled nursery school<sup>F247</sup> (other than a controlled integrated nursery school)] or a controlled special school and, subject to paragraph 6, of those members—

- (a) three#eighths shall be chosen by [<sup>F5</sup>the Authority]<sup>F248</sup> ...;
- (b) one#quarter shall be nominated by the Head of the Department;
- (c) one#quarter shall be elected by parents of [<sup>F249</sup>registered pupils at] the school from amongst the parents of such pupils;
- (d) one#eighth shall be elected by assistant teachers at the school from amongst such assistant teachers.]

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F247** 1998 NI 13
- F248** Words in Sch. 4 para. 4(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F249** Words in Sch. 4 para. 4(c) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(a)**; S.R. 2007/197, **art. 2(a)**

#### *Controlled integrated schools*

5.—(1) There shall be 14 or 21 voting members appointed to the Board of Governors of a controlled integrated school, other than a controlled integrated school to which sub-paragraph (3) applies, and, subject to paragraph 6, of those members—

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- (a) two-sevenths shall be elected by parents of [<sup>F250</sup>registered pupils at] the school from amongst the parents of such pupils;
  - (b) two-sevenths shall be chosen by [<sup>F5</sup>the Authority]<sup>F251</sup> ...;
  - (c) one-seventh shall be nominated by the transferors and superseded managers of controlled schools (other than controlled integrated schools) in the [<sup>F252</sup>locality served by the school] ;
  - (d) one-seventh shall be nominated by the nominating trustees of Catholic maintained schools in the [<sup>F253</sup>Roman Catholic diocese in which the school is situated (or in so much of that diocese as lies within Northern Ireland)] ;
  - (e) one-seventh shall be elected by assistant teachers at the school from amongst such assistant teachers.
- (2) Sub-paragraph (3) applies to—
- (a) a controlled integrated grammar school; and
  - (b) a controlled integrated school which immediately before the date on which it became a controlled integrated school was a voluntary school (other than a Catholic maintained school).
- (3) There shall be 14 or 21 voting members appointed to the Board of Governors of a controlled integrated school to which this sub-paragraph applies and, subject to paragraph 6, of those members—
- (a) two-sevenths shall be elected by parents of [<sup>F254</sup>registered pupils at] the school from amongst the parents of such pupils;
  - (b) two-sevenths shall be chosen by [<sup>F5</sup>the Authority]<sup>F255</sup> ...;
  - (c) two-sevenths shall be nominated by the Head of the Department;
  - (d) one-seventh shall be elected by assistant teachers at the school from amongst such assistant teachers.
- (4) It shall be the duty of [<sup>F5</sup>the Authority] in appointing persons to a Board of Governors under sub-paragraph (1)(b) or (3)(b) to choose for appointment persons appearing to [<sup>F5</sup>the Authority] to be committed to the continuing viability of the school as a controlled integrated school and it shall be the duty of the Head of the Department in nominating persons for appointment to a Board of Governors under sub-paragraph (3)(c) to nominate persons appearing to the Head of the Department to be so committed.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F250** Words in Sch. 4 para. 5(1)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(a)**; S.R. 2007/197, **art. 2(a)**
- F251** Words in Sch. 4 para. 5(1)(b) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F252** Words in Sch. 4 para. 5(1)(c) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(15)(a)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F253** Words in Sch. 4 para. 5(1)(d) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(15)(b)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F254** Words in Sch. 4 para. 5(3)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(a)**; S.R. 2007/197, **art. 2(a)**
- F255** Words in Sch. 4 para. 5(3)(b) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*Provisions supplementary to paragraphs 2 to 5*

6.—<sup>F256</sup>(1) Where <sup>F5</sup>the Authority] proposes to appoint persons to a Board of Governors under paragraph 2(2)(a), 3(2)(a) or 5(1)(c) or (d) it shall serve on the nominating authorities a notice—

- (a) stating <sup>F224</sup>the Authority's] intention to appoint such persons; and
- (b) requesting the nominating authorities to make nominations to <sup>F5</sup>the Authority] within a period of 21 days from the date on which the notice is served;

and where the nominating authorities fail to make any nomination requested by such a notice within that period <sup>F5</sup>the Authority] may, subject to sub-paragraph (2), appoint such persons as it considers to be suitable for appointment.

(2) It shall be the duty of <sup>F5</sup>the Authority] in appointing persons to the Board of Governors of a school under sub#paragraph (1)—

- (a) in the case of a controlled integrated school, to choose for appointment persons appearing to <sup>F5</sup>the Authority] to be committed to the continuing viability of the school as a controlled integrated school; and
- (b) in all cases, so far as possible to choose for appointment persons who are resident in the locality served by the school.

(3) Persons appointed under sub#paragraph (1) shall be deemed for all purposes of this Schedule to have been duly nominated by the nominating authorities.]

(4) The board shall, with the approval of the Department, make arrangements for the election of persons under paragraphs 2(2)(b) and (d), 3(2)(b) and (d), 4(c) and (d)<sup>F256</sup>, 5(1)(a) and (e) and 5(3)(a) and (d)] and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(5) Where it is not practicable to appoint to a Board of Governors under paragraph 2(2)(a) persons nominated by the transferors or superseded managers because a school is not a transferred school or does not supersede any other school or schools, <sup>F5</sup>the Authority] shall appoint in their place an equivalent number of persons appearing to <sup>F5</sup>the Authority] to be representative of transferors and superseded managers <sup>F257</sup>... and those persons shall, so far as possible, be persons resident in the locality served by the school or schools under the management of the Board of Governors and shall be deemed to have been duly nominated for the purposes of paragraphs 2(2)(a) and 3(2)(a).

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F224** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(b)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F256** 1989 NI 20

**F257** Words in Sch. 4 para. 6(5) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

*Interpretation*

7. In this Schedule—

“assistant teacher” means a teacher, other than the principal or a temporary or part-time teacher, employed on the staff of a school;

“superseded managers” means the persons who were formerly trustees or managers of any schools which have been superseded by <sup>F258</sup>controlled schools] or, if those persons were

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recognised by the Department as such trustees or managers by virtue of any office, then, their successors in such office;

“nominating trustees” has the meaning assigned to it by<sup>[F259]</sup> paragraph 7(1)] of Schedule 5.

[<sup>F260</sup>“nominating authorities”, in relation to the appointment of any persons to a Board of Governors, means the persons who or bodies which are to nominate persons for the purpose of such appointment.]

**F258** Words in Sch. 4 para. 7 substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 9\(15\)\(c\)](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

**F259** 1993 NI 12

**F260** 1989 NI 20

## [<sup>F261</sup>SCHEDULE 5

Article 11(2).

### MAINTAINED SCHOOLS

**F261** 1993 NI 12

## PART I

### MEMBERSHIP OF BOARD OF GOVERNORS OF MAINTAINED SCHOOL

**1.—(1)** The trustees of a maintained school shall, notwithstanding anything in any instrument of government of the school, have power to enter into an agreement with the Department that paragraph 2 shall apply in relation to the membership of the Board of Governors of the school; and—

- (a) where an agreement under this paragraph is in force in relation to a school, paragraph 2 shall apply in relation to the membership of the Board of Governors of the school; and
- (b) in any other case, paragraph 3 shall apply in relation to the membership of the Board of Governors of the school.

**(2)** An agreement under this paragraph shall provide that the Head of the Department, before making an appointment to the Board of Governors of the school under paragraph 2 shall consult—

- (a) in the case of a Catholic maintained school, the Council for Catholic Maintained Schools; and
- (b) in any other case, the Board of Governors of the school.

**2.—(1)** Where this paragraph applies in relation to the membership of the Board of Governors of a maintained school, the Board of Governors shall, notwithstanding anything in any instrument of government of the school, consist of—

- (a) 9, 18 or 27 persons (in this paragraph referred to as voting members);
- (b) the principal of the school who, subject to sub-paragraph (3), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question; and
- (c) persons co-opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

**(2)** Of the voting members of the Board of Governors—



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- (a) four-ninths shall be nominated by the nominating trustees in such manner as the scheme of management of the school may provide, and at least one of the persons so nominated shall, at the time of his nomination, be a parent of a <sup>F262</sup>registered pupil at] the school;
- (b) two-ninths shall be nominated by <sup>F5</sup>the Authority] ;
- (c) one-ninth shall be nominated by the Head of the Department;
- (d) one-ninth shall be elected by parents of <sup>F263</sup>registered pupils at] the school from amongst the parents of such pupils;
- (e) one-ninth shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.

(4) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(d) and (e) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

- F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with **Sch. 2 para. 4(3)**, **Sch. 3 para. 1(2)**); S.R. 2015/35, art. 2(b)
- F262** Words in Sch. 5 para. 2(2)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 28(a)**; S.R. 2007/197, art. 2(a)
- F263** Words in Sch. 5 para. 2(2)(d) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(b)**; S.R. 2007/197, art. 2(a)

**3.—(1)** Where this paragraph applies in relation to the membership of the Board of Governors of a maintained school, the Board of Governors shall, notwithstanding anything in any instrument of government of the school, consist of—

- (a) 10, 18 or 27 persons (in this paragraph referred to as voting members);
- (b) the principal of the school who, subject to sub-paragraph (4), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question; and
- (c) persons co-opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Where there are 10 voting members of the Board of Governors of a maintained school, then of those members—

- (a) six shall be nominated by the nominating trustees in such manner as the scheme of management of the school may provide, and at least one of the persons so nominated shall, at the time of his nomination, be a parent of a <sup>F264</sup>registered pupil at] the school;
- (b) two shall be nominated by <sup>F5</sup>the Authority] ;
- (c) one shall be elected by parents of <sup>F265</sup>registered pupils at] the school from amongst the parents of such pupils;
- (d) one shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Where there are 18 or 27 voting members of the Board of Governors of a maintained school, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions five-ninths, two-ninths, one-ninth and one-ninth respectively.

**Status:** Point in time view as at 25/03/2022.

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(4) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.

(5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F264** Words in Sch. 5 para. 3(2)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 28(a)**; S.R. 2007/197, **art. 2(a)**

**F265** Words in Sch. 5 para. 3(2)(c) substituted (23.03.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(b)**; S.R. 2007/197, **art. 2(a)**

4.—(1) The coming into force, or termination, of any agreement under paragraph 1 and any consequential change in the membership of the Board of Governors of a school shall not—

- (a) constitute a change for the purposes of Article 14(2)(d) or (e); or
- (b) break, or otherwise affect, the continuity of employment of persons employed by the Board of Governors.

(2) Where an agreement under paragraph 1 in relation to a school is terminated, the voting members of the Board of Governors of the school nominated under paragraph 2(2)(a) and (c) shall cease to hold office and such nominations to the Board of Governors shall be made by the nominating trustees as are necessary to ensure that the membership of the Board of Governors complies with paragraph 3.

(3) Where an agreement under paragraph 1 comes into force in relation to a school, the voting members of the Board of Governors of the school nominated under paragraph 3(2)(a) shall cease to hold office and such nominations to the Board of Governors shall be made by the nominating trustees and the Head of the Department as are necessary to ensure that the membership of the Board of Governors complies with paragraph 2.

(4) Persons nominated to the Board of Governors under sub-paragraph (2) or (3) shall hold office for the remainder of the original term of office of those ceasing to hold office under that provision.

(5) The coming into force, or termination, of an agreement under paragraph 1 does not affect the membership of the Board of Governors of any persons other than those mentioned in sub-paragraph (2) or (3).

*Part II (Paras. 5,6) rep. by 1996 NI 1*

## PART III

### INTERPRETATION

7.—(1) In this Schedule—

“assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 4;

**F266**  
...

“nominating trustees”, in relation to a school, means such persons as the scheme of management may provide.

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(2) Where two or more schools are grouped under one Board of Governors this Schedule shall apply to those schools with such modifications as may be necessary and in particular—

- (a) references to the Board of Governors of a school shall be construed as references to the Board of Governors of the group of schools;
- (b) references to a [<sup>F267</sup>registered pupil at] , or an assistant teacher at, a school shall be construed as references to a [<sup>F267</sup>registered pupil at] , or an assistant teacher at, one of the schools in the group;
- (c) references to the principal or the instrument of government of a school shall be construed as references to the principal or the instrument of government of each of the schools in the group;
- (d) references to the trustees of a school shall be construed as references to the trustees of each of the schools in the group, acting jointly;
- (e) any other references to a school shall be construed as references to the group of schools.]

**F266** Words in Sch. 5 para. 7(1) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

**F267** Words in Sch. 5 para. 7(2)(b) substituted (23.3.2007) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(4)(c), 44(1), [Sch. 2 para. 28\(a\)](#); S.R. 2007/197, art. 2(a)

## [<sup>F268</sup>SCHEDULE 6

Article 11(4).

### MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY GRAMMAR SCHOOL ENTERING INTO AGREEMENT WITH DEPARTMENT

**F268** 1993 NI 12

1.—(1) The trustees of a voluntary grammar school shall, notwithstanding anything in any instrument of government of the school, have power to enter into—

- (a) an agreement with the Department that paragraph 4 shall apply in relation to the membership of the Board of Governors of the school; or
- (b) an agreement with the Department that paragraph 5 shall apply in relation to the membership of the Board of Governors of the school.

(2) An agreement under sub-paragraph (1)(a) or (b) shall provide that the Head of the Department, before making an appointment to the Board of Governors of the school under paragraph 4 or 5 (as the case may be), shall consult the Board of Governors of the school and [<sup>F5</sup>the Authority]<sup>F269</sup> ....

(3) An agreement under sub-paragraph (1) shall have effect to terminate any prior agreement in force under that sub-paragraph.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F269** Words in Sch. 6 para. 1(2) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

2.—(1) The trustees of a voluntary grammar school in relation to which an agreement is in force under paragraph 1(1) shall, notwithstanding anything in any instrument of government of the

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school, have power to enter into an agreement, approved by the Department, with [<sup>F270</sup>the Authority conferring on the Authority] the right to appoint members to the Board of Governors of the school—

- (a) in accordance with paragraph 4(2)(b)(i), where an agreement under paragraph 1(1)(a) is in force in relation to the school;
- (b) in accordance with paragraph 5(2)(b)(i), where an agreement under paragraph 1(1)(b) is in force in relation to the school.

(2) The termination (otherwise than under paragraph 1(3)) of an agreement under paragraph 1(1) in relation to a school shall have effect to terminate any agreement under this paragraph then in force in relation to the school.

**F270** Words in Sch. 6 para. 2(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(16)(a) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**3.—**(1) Where an agreement under paragraph 1(1)(a) is in force in relation to a school, paragraph 4 shall apply in relation to the membership of the Board of Governors of the school.

(2) Where an agreement under paragraph 1(1)(b) is in force in relation to a school, paragraph 5 shall apply in relation to the membership of the Board of Governors of the school.

**4.—**(1) Where this paragraph applies in relation to the membership of the Board of Governors of a voluntary grammar school, the Board of Governors shall, notwithstanding anything in any instrument of government of the school, consist of—

- (a) 9, 18, 27 or 36 persons (in this paragraph referred to as voting members);
- (b) the principal of the school who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question; and
- (c) persons co-opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Of the voting members of the Board of Governors—

- (a) four-ninths shall be appointed as provided by the scheme of management and at least one of the persons so appointed shall, at the time of his appointment, be a parent of a [<sup>F271</sup>registered pupil at] the school;
- (b) one-third shall be appointed—
  - (i) where an agreement under paragraph 2 is in force in relation to the school, by the Head of the Department and [<sup>F272</sup>the Authority] in accordance with an agreement made between the Head of the Department and [<sup>F272</sup>the Authority] ;
  - (ii) in any other case, by the Head of the Department;
- (c) one-ninth shall be elected by parents of [<sup>F273</sup>registered pupils at] the school from amongst parents of such pupils;
- (d) one-ninth shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Subject to sub-paragraph (4), persons elected to the Board of Governors under sub-paragraph (2)(c) and (d) shall hold office for a period of four years from the date on which they were elected.

(4) If a person referred to in sub-paragraph (3) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(6) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school, the persons elected to the Board of Governors of the school under sub-paragraph (2)(c) and (d) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

**F271** Words in Sch. 6 para. 4(2)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 28(b)**; S.R. 2007/197, **art. 2(a)**

**F272** Words in Sch. 6 para. 4(2)(b)(i) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(16)(b)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F273** Words in Sch. 6 para. 4(2)(c) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(c)**; S.R. 2007/197, **art. 2(a)**

5.—(1) Where this paragraph applies in relation to the membership of the Board of Governors of a voluntary grammar school, the Board of Governors shall, notwithstanding anything in any instrument of government of the school, consist of—

- (a) 10, 18, 27 or 36 persons (in this paragraph referred to as voting members);
- (b) the principal of the school who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question; and
- (c) persons co-opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Where there are 10 voting members of the Board of Governors of the school, then of those members—

- (a) six shall be appointed as provided by the scheme of management and at least one of the persons so appointed shall, at the time of his appointment, be a parent of a [<sup>F274</sup>registered pupil at] the school;
- (b) two shall be appointed—
  - (i) where an agreement under paragraph 2 is in force in relation to the school, by the Head of the Department and [<sup>F275</sup>the Authority] in accordance with an agreement made between the Head of the Department and [<sup>F275</sup>the Authority] ;
  - (ii) in any other case, by the Head of the Department;
- (c) one shall be elected by parents of [<sup>F276</sup>registered pupils at] the school from amongst parents of such pupils;
- (d) one shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Where there are 18, 27 or 36 members of the Board of Governors of the school, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions five-ninths, two-ninths, one-ninth and one-ninth respectively.

(4) Subject to sub-paragraph (5), persons elected to the Board of Governors under sub-paragraph (2)(c) and (d) shall hold office for a period of four years from the date on which they were elected.

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(5) If a person referred to in sub-paragraph (4) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(6) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(7) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school, the persons elected to the Board of Governors of the school under sub-paragraph (2)(c) and (d) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

- F274** Words in Sch. 6 para. 5(2)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 28(b)**; S.R. 2007/197, **art. 2(a)**
- F275** Words in Sch. 6 para. 5(2)(b)(i) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(16)(c)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F276** Words in Sch. 6 para. 5(2)(c) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 27(c)**; S.R. 2007/197, **art. 2(a)**

6.—(1) The coming into force, or termination, of any agreement under paragraph 1(1) and any consequential change in the membership of the Board of Governors of a school shall not—

- (a) constitute a change for the purposes of Article 14(2)(d) or (e); or
- (b) break, or otherwise affect, the continuity of employment of persons employed by the Board of Governors.

(2) Where an agreement under paragraph 1(1)(a) in relation to a school is terminated under paragraph 1(3), the voting members of the Board of Governors of the school appointed under paragraph 4(2)(a) and (b) shall cease to hold office and such appointments to the Board of Governors shall be made under paragraph 5(2)(a) and (b) as are necessary to ensure that the membership of the Board of Governors complies with paragraph 5.

(3) Where an agreement under paragraph 1(1)(b) in relation to a school is terminated under paragraph 1(3), the voting members of the Board of Governors of the school appointed under paragraph 5(2)(a) and (b) shall cease to hold office and such appointments to the Board of Governors shall be made under paragraph 4(2)(a) and (b) as are necessary to ensure that the membership of the Board of Governors complies with paragraph 4.

(4) Persons appointed to the Board of Governors under sub-paragraph (2) or (3) shall hold office for the remainder of the original term of office of those ceasing to hold office under that provision.

(5) The termination under paragraph 1(3) of an agreement under paragraph 1(1) does not affect the membership of the Board of Governors of any persons other than those mentioned in sub-paragraph (2) or (3).

7. In this Schedule “assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 4.]

## SCHEDULE 7

Article 11(6).

### MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY GRAMMAR SCHOOL NOT ENTERING INTO AGREEMENT WITH DEPARTMENT OR BOARD

1. Notwithstanding anything in any instrument of government of a voluntary grammar school<sup>[F277]</sup> in relation to which no agreement under paragraph 1(1) of Schedule 6 is in force], the Board of Governors of the school shall be constituted in accordance with paragraph 2.

**F277** 1993 NI 12

2.—(1) The Board of Governors of the school shall consist of—

- (a) the persons appointed as provided by the scheme<sup>[F278]</sup> of management], at least one of whom shall, at the time of his appointment, be a parent of a <sup>[F279]</sup>registered pupil at] the school;
- (b) either one or two persons elected in accordance with sub-paragraphs (2) and (5) by parents of <sup>[F280]</sup>registered pupils at] the school from amongst the parents of such pupils;
- (c) either one or two persons elected in accordance with sub-paragraphs (2) and (5) by assistant teachers at the school from amongst such assistant teachers;
- (d) the principal of the school, who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

<sup>[F278]</sup>(e) persons co#opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.]

(2) Where the number of persons who are members of the Board of Governors by virtue of sub-paragraph (1)(a) is 13 or less, one person shall be elected to the Board of Governors under sub-paragraph (1)(b) and one person under sub-paragraph (1)(c); and where the number of such persons is 14 or more, two persons shall be elected to the Board of Governors under sub-paragraph (1)(b) and two persons under sub-paragraph (1)(c).

(3) Subject to sub-paragraph (4), persons elected to the Board of Governors under sub-paragraph (1)(b) and (c) shall hold office for a period of four years from the date on which they were elected.

(4) If a person referred to in sub-paragraph (3) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (1)(b) and (c) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(6) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school under sub-paragraph (1)(b) and (c) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

**F278** 1989 NI 20

**F279** Words in Sch. 7 para. 2(1)(a) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), Sch. 2 para. 28(c); S.R. 2007/197, art. 2(a)

**Status:** Point in time view as at 25/03/2022.

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**F280** Words in Sch. 7 para. 2(1)(b) substituted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), Sch. 2 para. 27(d); S.R. 2007/197, art. 2(a)

3. In this Schedule “assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 4.

*Schedule 8 rep. by 1996 NI 1*

## SCHEDULE 9

Article 17(1), 127.

### TRANSFER OF VOLUNTARY SCHOOLS TO DEPARTMENT

1. An arrangement for transferring a school to the Department under Article 17 may, subject to the following provisions of this Schedule, be made by the trustees who, in making such an arrangement, may act by resolution or otherwise as follows—

- (a) where the trust deed provides any manner in which or any assent with which a resolution or act binding the trustees is to be passed or done, then in accordance with the provisions of the trust deed;
- (b) where the trust deed contains no such provision—
  - (i) then in the manner and with the assent, if any, in and with which it may be shown to the Department to have been usual for a resolution or act binding the trustees to be passed or done; or
  - (ii) if no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two-thirds of those members of their body who are present at a meeting of the body summoned for the purpose and vote on the question and with the assent of any other person whose assent under the circumstances appears to the Department to be requisite.

2. An arrangement under this Schedule may provide for an absolute conveyance to the Department of all the estate in the premises of the school possessed by the trustees of the school or for a lease of the same with or without restrictions and either at a nominal rent or otherwise to the Department or for any arrangement that may be agreed upon between the trustees and the Department.

3. An arrangement under this Schedule may also provide for the transfer to the Department of a teacher's residence held or used in connection with the school or for the transfer or application, subject to the approval of the Department of Finance and Personnel, of any endowment belonging to the school or for the Department undertaking to discharge any debt charged on the school not exceeding the value of the estate in the premises or endowments transferred to it.

4. Where an arrangement is made under this Schedule, it shall be one of the terms of the arrangement that the trustees of the school or endowment shall, in pursuance of the arrangement, execute a proper conveyance and take all necessary steps in law for the effective conveyance to the Department of all such estate in the premises or endowment as is vested in those trustees or such smaller estate as may be agreed upon in the arrangement.



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5. Where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of the trustees, nothing in this Schedule shall authorise any interference with that right except with the consent of that person.

6. The Department shall consider and have due regard to any objections and representations respecting a proposed transfer of a school under this Schedule which may be made by any person or by the representatives or successors of any person who has contributed to the establishment of the school.

7. Where the trust instrument contains any provision for the alienation of the school by any persons or in any manner or subject to any consent, any arrangement under this Schedule shall be made by the persons in the manner and with the consent so provided.

8. Where a transfer of a school is made in pursuance of an arrangement under this Schedule, the consent of the Department shall, after the expiration of six months from the date of the transfer, be conclusive evidence that the arrangement has been made in conformity with this Order.

9. Where an arrangement under this Schedule provides for the transfer of a teacher's residence to the Department, this Schedule shall apply for the purposes of such transfer in like manner as it applies for the purposes of the transfer of a school.

*Schedule 10 rep. by 1989 NI 20*

*Schedule 11 rep. by 1996 NI 1*

*Schedule 12 rep. by 1987 NI 2*

F281 SCHEDULE 13

Article 45.

ENFORCEMENT OF DUTY IMPOSED BY ARTICLE 45 AS TO  
EDUCATION OF CHILDREN OF COMPULSORY SCHOOL AGE

F281 mod. by 1986 NI 3 sch. 13 para. 1B(3A) as inserted by 2005 NI 6

**Status:** Point in time view as at 25/03/2022.

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## PART I

### SCHOOL ATTENDANCE ORDERS

<sup>F282</sup>1.—(1) If it appears to [<sup>F5</sup>the Authority] that a parent of a child of compulsory school age <sup>F283</sup>... is failing to perform the duty imposed on him by Article 45, it shall serve a notice in writing on the parent requiring him to satisfy [<sup>F5</sup>the Authority], within such period (not being less than fourteen days beginning with the day on which the notice is served) as is specified in the notice, that the child is, by regular attendance at school or otherwise, receiving suitable education.

(2) If—

(a) a parent on whom a notice has been served under sub-paragraph (1) fails to satisfy [<sup>F5</sup>the Authority], within the period specified in the notice, that the child is receiving suitable education, and

(b) in the opinion of [<sup>F5</sup>the Authority] it is expedient that the child should attend school,

[<sup>F5</sup>the Authority] shall serve in the prescribed manner on the parent an order (referred to in this Order as a “school attendance order”), in the prescribed form, requiring him to cause the child to become a registered pupil at a school named in the order.

(3) Unless it is revoked by [<sup>F5</sup>the Authority] or a direction is made in respect of it by a court under paragraph 6, a school attendance order shall (subject to any amendment made by [<sup>F5</sup>the Authority]) continue in force—

(a) where the school named in the order provides education for pupils up to the upper limit of compulsory school age or beyond, for so long as the child is of compulsory school age;

(b) where the school does not provide education up to or beyond that age, until the pupil has reached the age at which he would normally leave that school.

(4) Where a grant-aided school is named in a school attendance order the Board of Governors of the school shall admit the child to the school.

(5) Sub-paragraph (4) does not affect any power to suspend or expel from a school a pupil who is already a registered pupil there.

(6) In this Part “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.]

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F282** 1996 NI 1

**F283** Words in Sch. 13 para. 1(1) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

#### Modifications etc. (not altering text)

**C16** [Sch. 13 para. 1\(4\)](#) power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 17 para. 17](#) (with ss. 88-90)

**C17** [Sch. 13 para. 1\(4\)](#) expiry of earlier affecting provision 2020 c. 7, [Sch. 16 para. 17](#) (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), s. 89 (with s. 90)

**1A.**—(1) Sub-paragraphs (2) to (5) apply where [<sup>F5</sup>the Authority] is required by virtue of paragraph 1(2) to serve a school attendance order in respect of a child, other than a child for whom it maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

(2) Before serving the order, [<sup>F5</sup>the Authority] shall serve on the parent a notice in writing—

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- (a) informing him of its intention to serve the order,
- (b) specifying the school which [<sup>F5</sup>the Authority] intends to name in the order and, if it thinks fit, one or more other schools which it regards as suitable alternatives, and
- (c) stating the effect of sub-paragraphs (4) and (5).

(3) A voluntary or grant-maintained integrated school shall not be specified in a notice under sub-paragraph (2) unless [<sup>F5</sup>the Authority] has consulted the managers of the school.

(4) If the notice specifies one or more alternative schools and the parent selects one of them and notifies [<sup>F5</sup>the Authority] accordingly before the expiration of the period of fourteen days beginning with the day on which the notice is served, the school selected by him shall be named in the order.

(5) If before the expiration of the period mentioned in sub-paragraph (4) the parent—

- (a) applies for the child to be admitted to a school other than the school or schools specified in the notice; and
- (b) notifies [<sup>F5</sup>the Authority] accordingly,

then, if as a result of the application the child is offered a place at that school, that school shall, subject to sub-paragraph (7), be named in the order.

(6) If at any time while a school attendance order is in force with respect to a child, other than a child for whom [<sup>F5</sup>the Authority] maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

- (a) the parent applies for the child to be admitted to a school other than the school named in the order; and
- (b) as a result of the application the child is offered a place at a school,

[<sup>F5</sup>the Authority] shall, subject to sub-paragraph (7), at the request of the parent amend the order by substituting that school for the one previously named.

(7) Sub-paragraphs (5) and (6) do not apply where the school at which the child is offered a place is an independent school unless, in the opinion of [<sup>F5</sup>the Authority], the school is suitable to his age, ability and aptitude and to any special educational needs he may have.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**1B.**—(1) Sub-paragraphs (2) and (3) apply where [<sup>F5</sup>the Authority] is required by virtue of paragraph 1(2) to serve a school attendance order in respect of a child for whom it maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

(2) Where the statement specifies the name of a School that school shall be named in the order.

(3) Where the statement does not specify the name of a school—

- (a) [<sup>F5</sup>the Authority] shall, <sup>F284</sup> . . . , amend the statement so that it specifies the name of a school, and
- (b) that school shall then be named in the order.

[<sup>F284</sup>(3A) An amendment to a statement required to be made under sub-paragraph (3)(a) shall be treated for the purposes of Schedule 2 to the Education (Northern Ireland) Order 1996 as if it were an amendment proposed following a periodic review (within the meaning of that Schedule).]

(4) Where—

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- (a) a school attendance order is in force in respect of a child for whom [F5the Authority] maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996, and
- (b) the name of the school specified in the statement differs (for whatever reason) from that specified in the order,

[F5the Authority] shall amend the order so that it names the school specified in the statement.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)  
**F284** 2005 NI 6

2.—(1) This paragraph applies where a school attendance order is in force in respect of a child.

(2) If at any time the parent applies to [F5the Authority] requesting that the order be revoked on the ground that arrangements have been made for the child to receive suitable education otherwise than at school, [F5the Authority] shall comply with the request, unless it is of the opinion that no satisfactory arrangements have been made for the education of the child otherwise than at school.

(3) If a parent is aggrieved by a refusal of [F5the Authority] to comply with a request under sub-paragraph (2), he may refer the question to the Department.

(4) Where a question is referred to the Department under sub-paragraph (3), it shall give such direction determining the question as it thinks fit.

(5) Where the child in question is one for whom [F5the Authority] maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

- (a) sub-paragraphs (2) to (4) do not apply if the name of a school is specified in the statement, and
- (b) in any other case a direction under sub-paragraph (4) may require [F5the Authority] to make such amendments in the statement as the Department considers necessary or expedient in consequence of its determination.

**F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

## PART II

### DUTY OF PARENT OF REGISTERED PUPIL TO SECURE HIS REGULAR ATTENDANCE AT SCHOOL

3.—(1) Subject to the following provisions of this paragraph, it shall be the duty of a parent of a registered pupil at a school to secure his regular attendance at that school.

[F285(1A) For the purposes of sub-paragraph (1) and of any proceedings under paragraph 4, attendance by a pupil at a school or other place in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006 shall be taken to be attendance at the school at which he is a registered pupil.]

(2) For the purposes of sub-paragraph (1) and of any proceedings brought under paragraph 4 in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school only by reason of his absence therefrom—

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(a) at any time when he was prevented from attending by reason of sickness or other unavoidable cause;

<sup>F286</sup>(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 <sup>F5</sup>the Authority] is required to make provision under Article 52(1), but no suitable arrangements have been made by <sup>F5</sup>the Authority] for his transport to and from school; and

(iii) that no suitable arrangements have been made by <sup>F5</sup>the Authority] 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;]

(c) at any time when he is employed in accordance with the provisions of Article 63(2).

(3) Where, in any proceedings brought against a parent on the ground that a child who is a registered pupil at a school has failed to attend that school regularly, it is proved that the child has no fixed abode, sub-paragraph (2)(b) shall not apply but the parent shall be entitled to be acquitted if he proves that he is engaged in any trade or business of such a nature as to require him to travel from place to place and that the child has attended (at the school at which he was a registered pupil) as regularly as the trade or business of the parent permitted provided that, in the case of a child who has attained the age of six years, he has so attended on at least one hundred days during the period of twelve months ending with the date on which the proceedings were instituted.

(4) In any proceedings as aforesaid in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom at a time when he was not prevented from being present by reason of sickness or other unavoidable cause.

(5) For the purpose of determining whether a child of compulsory school age who is a registered pupil at a school has failed to attend regularly because of sickness, <sup>F5</sup>the Authority] may cause the child to be examined either at his home or elsewhere by a medical practitioner and where the parent of a child unreasonably prevents <sup>F5</sup>the Authority] from exercising its power to have a child so examined he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) In this paragraph “walking distance” means, in relation to a child <sup>F286</sup> who is a registered pupil at a primary school], two miles and, in the case of any other child, three miles measured by the nearest available route.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F285** Sch. 13 para. 3(1A) inserted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 29**; S.R. 2007/197, **art. 2(a)**

**F286** 1997 NI 5

**Modifications etc. (not altering text)**

**C18** Sch. 13 para. 3(1) power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

**C19** Sch. 13 para. 3(1) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by Coronavirus Act 2020 (c. 7), **s. 89** (with s. 90)

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## PART III

### OFFENCES, PENALTIES AND ENFORCEMENT

4.—(1) Where a parent on whom a school attendance order has been served fails to comply with the requirements of the order or, subject to paragraph 3, where a child of compulsory school age who is a registered pupil at a school fails to attend regularly at that school, the parent shall be guilty of an offence unless he proves that he is causing the child to receive, otherwise than at school, efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale <sup>F287</sup> ... .

**F287** 1995 NI 2

5.—<sup>F288</sup>(1) Before instituting proceedings against a parent for an offence under paragraph 4(1) [<sup>F5</sup>the Authority] shall consider whether it would be appropriate, instead of or as well as instituting the proceedings, to apply for an education supervision order with respect to the child.]

*Sub#para. (2) rep. by 1995 NI 2*

(3) <sup>F288</sup> . . . Where it appears to [<sup>F5</sup>the Authority] that a child of compulsory school age <sup>F289</sup> ... is a child whom a person habitually wandering from place to place takes with him, [<sup>F5</sup>the Authority] may, if satisfied that it is necessary to do so in order to secure that the child receives efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, [<sup>F288</sup> apply for an education supervision order].

<sup>F288</sup>(4) In this Schedule “education supervision order” means an education supervision order under the Children (Northern Ireland) Order 1995.]

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

**F288** 1995 NI 2

**F289** Words in Sch. 13 para. 5(3) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

<sup>F290</sup>6.—(1) The court before which a prosecution is brought for an offence under paragraph 4 may direct [<sup>F5</sup>the Authority] to apply for an education supervision order unless [<sup>F5</sup>the Authority] , having consulted the appropriate authority, decides that the child's welfare will be satisfactorily safeguarded even though no education supervision order is made.

(2) Where, following such a direction, [<sup>F5</sup>the Authority] decides not to apply for an education supervision order, [<sup>F5</sup>the Authority] shall inform the court of its reasons for the decision.

(3) Unless the court directs otherwise, [<sup>F5</sup>the Authority] shall so inform the court within eight weeks from the date on which the direction was given.

(4) Where—

- (a) [<sup>F5</sup>the Authority] applies for an education supervision order with respect to a child who is the subject of a school attendance order; and
- (b) the court decides that Article 55(2) of the Children (Northern Ireland) Order 1995 prevents it from making the order,

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the court may direct that the school attendance order shall cease to have effect.

(5) In sub-paragraph (1) “the appropriate authority” means the appropriate authority within the meaning of paragraph 9 of Schedule 4 to the Children (Northern Ireland) Order 1995.]

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F290** 1995 NI 2

*Para. 7 rep. by 1995 NI 2*

**8.** For the purposes of a prosecution of the parent of a child for an offence under paragraph 4, the parent of the child shall be required to give to the court such information as he possesses regarding the date and place, and place of registration, of the birth of the child and where the parent refuses or is unable to give such information, the child shall, in so far as his having been of compulsory school age at any time is material, be presumed to have been of compulsory school age at that time.

*Para. 9 rep. by 1995 NI 2*

**10.—**(1) Proceedings for an offence under this Schedule shall not be taken except by or on behalf of the Authority or by an officer appointed for the purpose and authorised in that behalf by [<sup>F5</sup>the Authority].

(2) Any such officer appointed and authorised as aforesaid may, on behalf of [<sup>F5</sup>the Authority],—

- (a) perform the functions of [<sup>F5</sup>the Authority] under sub-paragraph<sup>F291</sup> . . . (3) of paragraph 5 or carry out any direction of a court given under paragraph 6(1);
- (b) although not of counsel or a solicitor, prosecute or conduct any proceedings brought under this Schedule before a court of summary jurisdiction<sup>F291</sup> . . . ]

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F291** 1995 NI 2

*Schedule 14 rep. by 1989 NI 20*

<sup>F292</sup>SCHEDULE 15

Article 82(2)

.....

**F292** Sch. 15 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

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## SCHEDULE 16

Articles 105(4), 106(2).

### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLES 105(4) AND 106(2)

#### PART I

##### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 105(4)

1. References to the Ministry concerned or to the council shall be construed as references to the Department within the meaning of this Order.
2. References to the said Schedule 6 shall be construed as references to that Schedule as modified by this Part.
3. Paragraph 1 shall be omitted.
4. In paragraph 2—
  - (a) for the words from the beginning to “directs” there shall be substituted “ Where the Department proposes to acquire land under Article 105(4) otherwise than by agreement, it shall give public notice of its intention to do so and such notice ”;
  - (b) in sub-paragraph (c) for the words “as may be prescribed” there shall be substituted the words “ as the Department considers fit ”.
5. For paragraph 3(1)(ii) there shall be substituted “ decide not to make the order ”.
6. In paragraph 4 the words from “and may provide” to the end of the paragraph shall be omitted.
7. In paragraph 5—
  - (a) in sub-paragraph (1)(a) the words “in the prescribed form and manner” shall be omitted;
  - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
  - (c) in sub-paragraph (1)(d) the words “in the prescribed form” shall be omitted;
  - (d) in sub-paragraph (2) for the words “ as may be prescribed” there shall be substituted the words “ as the Department considers fit ”.
8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” there shall be substituted the words “ Consolidated Fund ” and for the words “out of the compensation fund” there shall be substituted the words “ made by the Department ”.
9. In paragraph 11(3) the words “in the prescribed form” shall be omitted.
10. In paragraph 12 in sub-paragraph (1) the words “such” and “as may be prescribed” shall be omitted and in sub-paragraph (2) for the words from “clerk” to “directs” there shall be substituted the words “ Department as correct, and shall publish ”.
11. In paragraph 14(1), the words “in the prescribed form” shall be omitted.
12. In paragraph 15(1) for the words “in the prescribed form” there shall be substituted the words “ in such form as may be approved by the Department ”.
13. Paragraph 19 shall be omitted.
14. In paragraph 20, sub-paragraph (2) shall be omitted.



## PART II

### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 106(2)

1. For any reference to a council or the council or the clerk of the council there shall be substituted a reference to [<sup>F5</sup>the Authority]<sup>F293</sup> ... or the [<sup>F294</sup>chief executive] of [<sup>F5</sup>the Authority] respectively.

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F293** Words in Sch. 16 Pt. II para. 1 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, **art. 2(b)**
- F294** 1989 NI 20

2. For any reference to the Ministry concerned there shall be substituted a reference to the Department.

3. For any reference to that Act there shall be substituted a reference to this Order.

4. Any references to that Schedule shall be construed as references to that Schedule as modified by this Part.

5. For any reference to a matter prescribed by regulations made by the Department of the Environment there shall be substituted a reference to a matter prescribed by regulations made by the Department of Education.

6. In paragraphs 2(c) and 5(2) for the words “as may be prescribed” there shall be substituted the words “as appear to [<sup>F5</sup>the Authority] to have an interest in the matter”.

- F5** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

7. Paragraph 19 shall be omitted.

*Schedule 17 rep. by 1989 NI 20*

*Schedule 18—Amendments*

**Status:** Point in time view as at 25/03/2022.

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## SCHEDULE 19

Article 133(1)

### TRANSITIONAL PROVISIONS

#### *General*

1. In so far as anything done or having effect as if done under or in pursuance of any provision repealed by this Order could have been done under or in pursuance of a corresponding provision of this Order, it shall have effect as if done under or in pursuance of that provision.

2. Where any period of time specified in any provision repealed by this Order is current at the coming into operation of this Order, this Order shall have effect as if the corresponding provision of this Order had been in force when that period began to run.

#### *School management*

3.—(1) This paragraph applies to a voluntary grammar school the trustees or governing body of which had entered into an agreement with the Department or [<sup>F5</sup>the Authority] or boards under Schedule 6 to the 1972 Order which was existing immediately before 1st August 1984.

(2) Subject to sub-paragraph (3), and agreement made, or having effect as if made, by the trustees or governing body of a school to which this paragraph applies with the Department or [<sup>F5</sup>the Authority] or boards under paragraph 1 of Schedule 6 to the 1972 Order and existing immediately before 1st August 1984 shall continue to have effect as if made under paragraph 1 of Schedule 6 to this Order.

(3) Any reference in any such agreement to a period of years for which a person appointed to the Board of Governors of the school by the Head of the Department or by [<sup>F5</sup>the Authority] or boards is to hold office shall, in relation to any appointment made on or after 1st August 1984, have effect as if it were a reference to a period of four years.

(4) Any scheme approved under Article 9(2) of the 1972 Order by the Department for a school to which this paragraph applies shall continue to have effect as if approved under Article 11(2) of this Order but, so far as it relates to the constitution of the Board of Governors of the school, shall have effect, in relation to any appointment of a Board of Governors made after 1st August 1984, subject to the provisions of paragraph 3 of Schedule 6 to this Order.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

4.—(1) This paragraph applies to a voluntary grammar school, the trustees or governing body of which had not entered into an agreement with the Department or [<sup>F5</sup>the Authority] or boards under Schedule 6 to the 1972 Order which was existing immediately before 1st August 1984.

(2) Any scheme approved under Article 9(2) of the 1972 Order by the Department for a school to which this paragraph applies shall continue to have effect as if approved under Article 11(2) of this Order but, so far as it relates to the constitution of the Board of Governors of the school, shall have effect, in relation to any appointment of a Board of Governors made after 1st August 1984, subject to the provisions of paragraph 2 of Schedule 7 to this Order.

**F5** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

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*Para. 6 rep. by 1993 NI 12*

*Schedule 20—Repeals*

**Status:**

Point in time view as at 25/03/2022.

**Changes to legislation:**

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