
STATUTORY INSTRUMENTS

1986 No. 594

The Education and Libraries (Northern Ireland) Order 1986

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 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.

Changes to legislation: The Education and Libraries (Northern Ireland) Order 1986, PART IV is up to date with all changes known to be in force on or before 07 July 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) View outstanding changes

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^{[F1} 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;
- ^{[F2}(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.

F1 1996 NI 1

F2 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,^{[F3} appeal therefrom to the Independent Schools Tribunal constituted in accordance with regulations under paragraph (8)].

- (2) ^{[F3}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^[F3] 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^[F3] 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^[F3] 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^[F3] 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.

^[F3](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—

- (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.]

Changes to legislation: *The Education and Libraries (Northern Ireland) Order 1986, PART IV is up to date with all changes known to be in force on or before 07 July 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) View outstanding changes*

Enforcement

41.—(1) Where an order is made by the Department or by^{[F4} 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.

F4 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^{[F5} independent schools tribunal].

F5 1996 NI 1

Changes to legislation:

The Education and Libraries (Northern Ireland) Order 1986, PART IV is up to date with all changes known to be in force on or before 07 July 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 18 repealed in part by [S.I. 2003/435 \(N.I.\) art. 49\(2\)](#)Sch. 2
- [art.77\(3\)](#) revoked by [S.I. 1996/2967 reg.11\(7\)](#)