
STATUTORY INSTRUMENTS

1986 No. 594

The Education and Libraries (Northern Ireland) Order 1986

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,^{F1} . . . to any member of the board or of a committee of the board or a sub-committee thereof 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.

[^{F1}(1A) Payments under paragraph (1) shall be made at such rates and on such conditions as may be—

- (a) determined by the board; and
- (b) approved by the Department.]

(2) Paragraph (1) shall apply to members of [^{F2}, or of a committee of,]

- (a) a Board of Governors of a controlled school;
- (b) a Board of Governors of a maintained school;^{F3} . . .

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

in like manner as it applies to members of a board.

(3) A board shall make payments to—

- (a) the chairman of the board for or in relation to his functions as chairman of the board, of amounts or at rates not exceeding such amounts or rates and on such conditions as the Department, with the approval of the Department of Finance and Personnel, may determine;
- (b) the members of the board for or in relation to their functions as members of the board, of amounts or at rates not exceeding such amounts or rates and on such conditions as the Department may determine.

- F1** 2003 NI 12
F2 1989 NI 20
F3 1997 NI 15

Modifications etc. (not altering text)

- C1** 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)

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Changes to legislation: The Education and Libraries (Northern Ireland) Order 1986, Cross Heading: Administration is up to date with all changes known to be in force on or before 20 May 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)

Payments in respect of official visits, etc.

80.—^[F4](1) A board may—

- (a) defray any travelling or other expenses reasonably incurred by any person in making official visits, whether inside or outside the United Kingdom, on behalf of the board;
- (b) defray any expenses reasonably incurred in the reception and entertainment of distinguished persons residing in or visiting the area of the board and persons representative of or connected with any public service whether inside or outside the United Kingdom and in the supply of information to such persons.]

^[F4](2) Payments under paragraph (1)(a) shall be made at such rates and on such conditions as may be—

- (a) determined by the board, after consultation with the Staff Commission; and
- (b) approved by the Department.]

F4 2003 NI 12

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

81. A person shall, so long as he is, and for twelve months after he has ceased to be, a member of a board, be disqualified for being employed by the board as a paid officer.

The Staff Commission

82.—(1) There shall be a body to be known as the Staff Commission for Education and Library Boards (in this Order referred to as “the Staff Commission”) for the purposes of exercising general oversight of matters connected with the recruitment, training and terms and conditions of employment of officers of boards and of making recommendations to boards on such matters.

(2) The provisions of Schedule 15 shall apply to the constitution, appointment and functions of the Staff Commission.

(3) The Department may by order subject to affirmative resolution make provision for modifying the functions of the Staff Commission or for its amalgamation with one or more bodies having similar functions, and such an order may modify or repeal any provision of this Article or Schedule 15.

(4) In paragraph (3) “modify” has the meaning assigned to it by section 148(1) of the Local Government Act (Northern Ireland) 1972.

^[F5]Officers of boards

83.—(1) A board shall appoint a fit person to be—

- (a) the chief executive of the board who shall also be the chief education officer of the board and act as secretary to the board; and
- (b) the chief librarian of the board who shall also act as secretary to the library committee of the board.

(2) In connection with making an appointment to any post under paragraph (1), a board shall consult the Staff Commission as to—

- (a) the qualifications and previous experience to be required of candidates for appointment;
- (b) the arrangements for advertising the post; and
- (c) the terms and conditions on which the appointment is to be made.

(3) A board shall not appoint—

- (a) a person as chief executive unless the Department approves the appointment;
 - (b) a person as chief librarian unless the Department of Culture, Arts and Leisure approves the appointment.
- (4) In order to obtain such approval, the board shall send to the department concerned the names, qualifications and previous experience of those applicants considered by the board to be suitable for appointment, indicating the name of the person whom the board proposes to appoint.
- (5) Where a board makes an appointment under paragraph (1) it shall notify each of the funding departments of—
- (a) the name of the person appointed; and
 - (b) the date on which the appointment is to take effect.
- (6) The Department may direct that the terms and conditions relating to remuneration of—
- (a) chief executives and chief librarians of boards; and
 - (b) other officers of boards of such class or description as may be specified in the direction,
- shall not be fixed or altered without the approval of the Department.
- (7) Before granting its approval under paragraph (6), the Department shall consult the Staff Commission.
- (8) Two or more boards may arrange for the appointment of the same person to be an officer of both or all those boards; but the boards concerned shall notify each of the funding departments of any such arrangement.]

F5 2003 NI 12

Loans to officers for purchase of motor cars and motor cycles

84.—(1) For the purpose of facilitating officers of the board in the purchase of motor cars and motor cycles essential to the efficient carrying out of their official duties, a board may make loans to officers of the board on such conditions and at such rates of interest as the Department may, with the approval of the Department of Finance and Personnel, determine.

(2) Such loans shall be made in accordance with a scheme prepared by the board and approved by the Department and shall be made only to such officers or officers of such description as are specified in the scheme.

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

85.—(1) An officer of a board shall not, under colour of his office or employment, exact or accept (whether directly or indirectly for himself or for or through another) any fee or reward other than his proper remuneration and any person who acts in contravention of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Sections 46 and 146 of the Local Government Act (Northern Ireland) 1972 (duty of officers to disclose pecuniary interest and interpretation) shall apply to officers of a board in like manner as they apply to officers of a district council but with the substitution for references to a district council, councillors and clerk of a council of references to a board, members of a board and chief officer of a board respectively.

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Insurance against risks by boards

86.—^[F6(1)] A board may, and if so directed by the Department shall, insure against such risks in connection with any of the functions of the board as the board or the Department considers necessary.

^[F6(2)] A board may insure, or meet the cost of insuring, against such risks in connection with any of the functions to which this paragraph applies as the board considers necessary.

(3) Paragraph (2) applies to the functions of—

- (a) the Board of Governors of a grant-aided school, other than a voluntary grammar school or a grant-maintained integrated school;^{F7} . . .

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

and so applies whether or not those functions are carried out on behalf of, and in the name of, the board.]

F6 1993 NI 12

F7 1997 NI 15

Protection for officers acting in execution of duty

87.—(1) An officer of a board 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 the board 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 a board of any liability in respect of acts of its officers.

(2) Where an action is brought against an officer of a board 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 the board to indemnify him, the board 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 the board 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.

Appointment of non-teaching staff for controlled and maintained schools

88.—(1) Where it is necessary to appoint staff^{[F8} to which this paragraph applies for] a controlled school or a maintained school, the board which manages the controlled school or, as the case may be, is responsible for the maintenance of the maintained school shall furnish to the Board of Governors of the school the names of all applicants for appointment whom the board 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 the board of the name or names of the person or persons so selected.

^[F8(1A)] Paragraph (1) applies to all staff required^{[F9} by a board] 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^{F10} Part V of the 1989 Order; 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 the board 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), the board 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 the board 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, the board 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, the board 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 the board 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 the board 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 a board under paragraph (4) may refer the matter to the Department for determination.

(6) The functions of a Board of Governors under this Article shall^{[F8} be carried out on behalf of, and in the name of, the board].

F8 1989 NI 20

F9 1997 NI 5

F10 prosp. subst. by 1998 NI 13

[^{F11} Regulations as to employment of certain non-teaching staff

88A^{F12}.—(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
 - [on medical grounds;
- ^{F13}(i)
- (ii) on the grounds of misconduct;
 - (iii) on the grounds that the persons concerned are unsuitable to work with children; or

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- (iv) on the grounds that the persons concerned are included (other than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003]

(3) This Article applies to persons employed by a board^{F14} or by the governing body of an institution of further education] or by the managers of^{F15} 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.]

F11 1987 NI 2
F12 certain functions transf. by SR 1999/481
F13 2003 NI 4
F14 1997 NI 15
F15 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 the board;
- (b) a caretaker, groundsman or other person employed by the board in connection with a school or institution managed by the board or a maintained school or any premises or property used by the board for educational purposes or purposes connected therewith;

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 a board for the purposes of paragraph (1)(b).

(3) Where a board provides and maintains or maintains a house or residence under paragraph (1) the board may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(4) Where a board provides and maintains or maintains a house or residence under paragraph (1), the board 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,^{F16} 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.

^{F16}(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 a board 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) the board 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 the board 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.

F16 1987 NI 2

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

90.—(1) In this Article—

“statutory loan” means a loan made before the 1st February 1922 under the National School Teachers' Residences (Ireland) Act 1875;

“teacher's residence” means premises provided, erected, structurally improved or purchased by means of a statutory loan;

“trustees”, in a case where a teacher's residence was, before 1st October 1973, transferred to a former local education authority, includes the Department or a board where the teacher's residence has become vested in it under this Order.

(2) A teacher in occupation of a teacher's residence shall, during the period of the repayment of the statutory loan and thereafter during the estate of the trustees, be required to pay to the trustees or, where the Department is the trustees, to the board responsible for maintaining the residence such sum as the Department may approve.

(3) Where a teacher's residence was provided in connection with a particular school and is not required for the use of a teacher in that school, the trustees or, where the Department is the trustees, the board responsible for maintaining the residence may, with the approval of the Department, permit some other person to occupy it and the board may charge the person occupying the residence such sums, if any, as the Department may approve.

(4) The trustees may recover possession of a teacher's residence on giving six months' notice in writing to the teacher or other person occupying the residence and where the Department is the trustees a board may, at the Department's request, act on behalf of the Department in effecting the recovery of the residence.

(5) In relation to a teacher's residence—

(a) the Rent (Northern Ireland) Order 1978 shall not apply; and

(b) the trustees or a board 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 residence and for the purposes of any such proceedings that Part shall have effect as if the trustees or the board were the owner of the residence and the teacher or other person in possession thereof were a person who had been put into such possession by permission of the owner as caretaker.

(6) Subject to the provisions of this Article, a teacher's residence shall, notwithstanding the completion of the repayment of any statutory loan by means of which the residence was provided, continue to be held during the term of the estate of the trustees, upon the same trusts and conditions as it was held during the period of repayment, and any arrangement made under Article 17 and Schedule 9 with respect to a teacher's residence shall provide accordingly.

(7)^{F17} Where the Department of Finance and Personnel is satisfied that a teacher's residence which is held by trustees for an estate not limited by reference to any condition as to user is no longer

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required for occupation by a teacher in connection with any school, it may, notwithstanding the provisions of paragraph (6), authorise the sale of the teacher's residence and—

- (a) a sale so authorised shall have effect as if authorised under section 18 of the Charities Act (Northern Ireland) 1964; and
- (b) the provisions of section 13 of that Act shall apply to the proceeds of such sale irrespective of the amount thereof.

F17 functions transf. by SR 1999/481

Art. 91 rep. by 1989 NI 20

[^{F18}Use of spare capacity of computers of board

91A.—(1) If a board—

- (a) has provided a computer for the purpose of enabling the board to perform any of its functions other than functions under this Article; and
- (b) considers that the computer can, without detriment to its use for that purpose, be used for the benefit of the board in pursuance of the following provisions of this Article,

the board may enter into agreements with other persons for the provision by the board of facilities for using the computer or of services provided by means of the computer.

(2) An agreement in pursuance of this Article may contain such terms as to payment or otherwise as the parties consider appropriate; and it shall be the duty of a board, in settling the terms of such an agreement, to ensure that they are terms on which the board considers that a person other than a board could reasonably be expected to provide the facilities or services in question.

(3) In this Article “computer” means any device for storing and processing information.]

F18 1987 NI 2

Power of boards as to research and conferences

92.—[^{F19}(1) A board may, in connection with the exercise of any of its functions under the Education Orders, either alone or together with any other board or person,—

- (a) carry out, or commission, or assist in any way, the carrying out by any other body or person of, any programme of research and development;
- (b) carry out any project appearing to the board to be associated with the provision of educational or library services or recreational, social, cultural, physical or youth service activities or services ancillary to education.

(1A) A board shall—

- (a) notify the Northern Ireland[^{F20} Council for the Curriculum, Examinations and Assessment] of its intention to exercise any of its powers under paragraph (1) in relation to any matter concerned with the curriculum for grantaided schools;
- (b) provide the Council with such reports in connection with the exercise of that power as the Council may reasonably request.]

(2) A board may—

- (a) organise, or participate in the organisation of, conferences for the discussion of questions relating to any of its functions under[^{F19} the Education Orders] and may incur such expenditure as may be reasonable in paying or contributing towards any expenses incurred

in connection with any conferences so organised by the board or in which the board so participates;

- (b) ^{F21} . . . defray or contribute towards the expenses reasonably incurred by any person authorised by it to attend any conference for the discussion of questions relating to any of its functions under^{F19} the Education Orders], other than expenses in respect of which payment may be made under Article 79.

^{F21}(3) Payments under paragraph (2)(b) shall be made at such rates and on such conditions as may be—

- (a) determined by the board, after consultation with the Staff Commission; and
(b) approved by the Department.]

F19	1989 NI 20
F20	1993 NI 12
F21	2003 NI 12

Contributions to certain bodies

93. Subject to any direction which may be given by the Department, a board may either alone or together with another board or other boards defray or contribute towards the expenses of bodies into which the board is affiliated or of which the board is a member.

Making of bye-laws by boards

94.—(1) It shall be the duty of each board 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 the board 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 the board 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 in the area of the board making the bye-law as the Department thinks requisite.

(6) A copy of bye-laws when confirmed shall be printed and deposited at the headquarters of the board by which the bye-laws were made 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 the board determines.

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(7) A copy of any bye-law made by a board under this Order certified and signed by the^{F22} chief executive] of the board or, in his absence, such other officer as the board authorises to be a true copy and to have been duly confirmed shall, until the contrary is proved, be evidence in all legal proceedings of the due making, confirmation and existence of such bye-law without further or other proof.

F22 1989 NI 20

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

95.—(1) Subject to paragraphs (2) and (5), every meeting of a board shall be open to the public.

(2) A board may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings at the meeting) whenever publicity would be prejudicial to the public interest—

- (a) by reason of the confidential nature of the business to be transacted at the meeting; or
- (b) for such special reasons as may be specified in the resolution being reasons arising from the nature of the business to be transacted or of the proceedings at the meeting.

(3) Without prejudice to the generality of paragraph (2)(b), a board may treat the need to receive or consider recommendations or advice from sources other than members of the board or committees of the board or sub-committees thereof as a special reason for the purposes of that paragraph without regard to the subject or purport of the recommendations or advice.

(4) Subject to paragraph (5), at all times during which a meeting of the board is required by this Article to be open to the public, the board shall, so far as practicable cause to be made available to duly accredited representatives of newspapers attending for the purpose of reporting proceedings at the meeting reasonable facilities for taking reports of those proceedings and, on payment by those representatives or their newspapers of any expenses which may be incurred, for transmitting such reports to their newspapers.

(5) Nothing in paragraph (1) or (4) shall—

- (a) affect or derogate from any power of excluding persons from a meeting for the purpose of suppressing or preventing disorderly conduct or other misbehaviour at, or disturbance of, the meeting; or
- (b) require a board to permit the taking of photographs of any proceedings or the use of any means to enable persons not present at the meeting to see or hear any of the proceedings (whether at the time or later) or the making of any oral report on any proceedings as they take place.

(6) Where, at a meeting of a board, the board resolves itself into committee, the proceedings in committee shall for the purposes of this Article, be treated as forming part of the proceedings of the board at that meeting.

(7) This Article shall apply to meetings of a committee of a board other than a teaching appointments committee or a committee which is not authorised to perform functions on behalf of, or in the name of, the board as it applies to meetings of a board but shall not apply to meetings of a sub-committee.

Notice and information to be given as to meetings of boards

96. Where a meeting of a board or committee of a board is required by Article 95 to be open to the public during the whole or any part of the proceedings at the meeting, the board or committee shall—

- (a) cause a notice stating the time and place at which the meeting is to be held to be posted in a conspicuous place at the offices of the board two days at least before the meeting or, if the meeting is convened at shorter notice, at the time it is convened; and
- (b) if so requested by or on behalf of a newspaper and on payment by or on behalf of that newspaper of postage or other necessary expenses which may be incurred for transmission, supply for the benefit of that newspaper—
 - (i) a copy of the agenda as circulated to members of the board or committee with the omission of any items during the proceedings on which the meeting is likely not to be open to the public; and
 - (ii) such further statement or particulars and copies of such other documents as are necessary to indicate the nature of any item included in the copy of the agenda so supplied.

Certain publications to be privileged

97.—(1) Where a board or committee of a board supplies to any member of the public attending a meeting of the board or a committee thereof or, pursuant to paragraph (b) of Article 96, supplies for the benefit of a newspaper copies of the agenda, statements, particulars or copies of other documents mentioned in that paragraph, the publication of any defamatory matter contained in the agenda, statement, particulars or documents so supplied shall be privileged unless the publication is proved to be made with malice.

(2) [^{F23} In the Schedule to the Defamation Act (Northern Ireland) 1955 (by virtue of which, among other things, newspaper reports of all proceedings at meetings of local authorities and their committees are privileged unless admission to the meeting is denied to representatives of newspapers and other members of the public) references to a local authority shall be deemed to include a reference to a board or a committee of a board.]

F23 Art. 97(2) repealed (4.9.1996 so far as consequential on ss. 1, 6, 12(3), 13, 16 of the repealing Act and at 1.4.1999 so far as consequential on ss. 14, 15, 17, Sch. 1 otherwise prosp.) by 1996 c. 31, s. 16, 19(2), Sch. 2 (with s. 20(2)); S.I. 1999/817, art. 2

Inspection of minutes of proceedings of boards

98. The minutes of the proceedings of a board or any committee thereof shall be open at all reasonable hours for inspection without payment by any person and a person inspecting the minutes may make a copy of, or of any part of, the minutes.

Determination of disputes between boards

99^{F24}. Any dispute arising between boards as to their respective functions under [^{F25} the Education Orders] shall be referred to the Department and any such dispute so referred shall be determined by the Department whose determination shall be final.

F24 certain functions transf. by SR 1999/481
F25 1989 NI 20

[^{F26} Determination of disputes

100. Any dispute arising between—

- (a) a board and the trustees or managers of a voluntary school;

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- (b) a board and the Board of Governors of a grant#maintained integrated school;
[a board and the governing body of an institution of further education;]
- ^{F27}(bb
F28
- (c) a board 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.]

F26 1989 NI 20
F27 1997 NI 15
F28 certain functions transf. by SR 1999/481

^{F29}**Power of Department to give directions**

101 ^{F30}.—(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) a board;
- (b) the Board of Governors or trustees of a grant#aided school;
- Sub#para. (c) rep. by 1993 NI 12*
- (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.]
- ^{F31}(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).

[
^{F32}(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).]]

- F29** 1989 NI 20
- F30** certain functions transf. by SR 1999/481
- F31** 1993 NI 12
- F32** 2005 NI 13

Modifications etc. (not altering text)

- C2** 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))

[^{F33}**Inspection of educational and other establishments by Department**

102 ^{F34}—(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;]

^{F35}(aa)

- (b) a college of education;
- (c) a grant#aided institution or establishment; or

Status: Point in time view as at 01/01/2006.

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- (d) an institution or establishment which is established, maintained or managed by a board or the activities of which are organised by a board.
- (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.
- [
- ^{F35}(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 Article 5(1)(a) of the 1989 Order 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.]

F33 1996 NI 1
F34 certain functions transf. by SR 1999/481
F35 1997 NI 15

Lay persons

102A^{F36}.—(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.

F36 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^{F37}.—(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^{F38} 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^{F38} 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.

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(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^{F39} 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 a board^{F40} 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 or, in the case of registered land, the title to which the certificate relates shall be registered in the Land Registry.

F37 certain functions transf. by SR 1999/481

F38 1989 NI 20

F39 1995 NI 9

F40 1997 NI 15

Functions of boards in relation to land

106^{F41}.—(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 a board desires to acquire otherwise than by agreement any land which it considers necessary for the purposes of^{F42} 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^{F43} in relation to which an agreement under paragraph 1(1) of Schedule 6 is in force^{F42}. . . , the board may apply to the Department for an order vesting such land in the board 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 a board 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 re-vesting of the land in the board in the event of the land not being, or not continuing to be, used or required for approved purposes of that school, as the board 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 in paragraph (5) shall be construed as including references to a board and the reference to the Department in paragraph (8) shall be construed as including the board by which the authorisation was given;

(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 a board to act on its behalf in the acquisition, holding or disposal of land and a board shall manage and maintain, and may provide any buildings required for the purposes of^{F42} 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 the board in its own name.

F41 certain functions transf. by SR 1999/481

F42 1989 NI 20

F43 1993 NI 12

Transfer to board of certain assets of Department

107.—(1) The Department may, where it thinks fit, transfer to a board any assets or liabilities transferred to it under Article 96(1) of the 1972 Order.

(2) The transfer to the Department by virtue of the said Article 96(1) 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.

Art. 108 rep. by 2005 c. 12

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

109^{F44}. 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^{F45} the Education Orders].

F44 certain functions transf. by SR 1999/481

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F45 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.

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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