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STATUTORY INSTRUMENTS

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**1989 No. 2406**

**The Education Reform(Northern Ireland) Order 1989**

**PART X**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Miscellaneous amendments to the principal Order*

**Power of Department to give directions**

**158.** For Article 101 of the principal Order there shall be substituted the following Article—

**“Power of Department to give directions**

**101.**—(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;
- (c) a person approved by the Department under Article 11(8);
- (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;

(g) the Northern Ireland Curriculum Council;

(h) the Northern Ireland Schools Examinations and Assessment Council.

(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(1) shall not apply to any order made under paragraph (7).”.