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STATUTORY INSTRUMENTS

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**1989 No. 2406**

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

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Education Reform (Northern Ireland) Order 1989.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of two months from the date on which it is made.

(3) The following provisions of this Order shall come into operation on such day or days as the Department may by order appoint<sup>F1</sup>

Article 5(1)(b), (2), (4) and (5);

Article 6 and Schedule 2;

Article 8(1);

Article 9;

Article 11(1)(b) to (e) and (2);

Articles 18 to 28 and Schedule 3;

Article 34;

Part IV;

Article 54;

Article 56;

Article 57;

Articles 59 to 62;

Article 77(2) to (6);

Article 78;

Articles 102 to 104;

Article 113;

Article 119;

Articles 127 to 138;

Part IX and Schedule 8;

Article 156;

Article 159;

Article 166 and Schedule 9 so far as relating to—

The Commissioner for Complaints Act (Northern Ireland) 1969<sup>F2</sup>;

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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)

The Industrial Relations (No. 2) (Northern Ireland) Order 1976<sup>F3</sup>;

The following provisions of the Education and Libraries (Northern Ireland) Order 1986<sup>F4</sup>, namely, the definition of “grammar school” in Article 2(2) and Articles 4, 8(2), 10(5), 11(1), 33, 65, 69, 72, 79(2), 88(6), 103(1) and 116(1);

Article 167 and Schedule 10 so far as relating to—

The Children and Young Persons Act (Northern Ireland) 1968<sup>F5</sup>;

The following provisions of the Education and Libraries (Northern Ireland) Order 1986, namely, the definition of “intermediate school” in Article 2(2) and Articles 4, 8(1)(b) and (c), 24 to 26, 28, 56(1) and (4) to (6), 57(1), 68, 103(1), 117, Part IX, Schedule 2, paragraph 4 of Schedule 3, Schedule 14 and Schedule 17;

The Education (Northern Ireland) Order 1987<sup>F6</sup>.

(4) An order under paragraph (3) may—

- (a) make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions brought into operation by the order;
- (b) include such adaptations of the provisions which it brings into operation, or of any other provision of this Order then in operation, as appears to the Department necessary or expedient for the purpose or in consequence of the operation of any provision of this Order (including in particular, the provisions which the order brings into operation) before the coming into operation of any other provision.

<b>F1</b>	partly exercised by SR 1990/125, 249; 1991/109, 391; 1992/169; 1994/295 (C.9), 296 (C.10); 1995/204 (C.2); 1997/188 (C.9); 1998/119 (C.5)
<b>F2</b>	<a href="#">1969 c. 25 (N.I.)</a>
<b>F3</b>	<a href="#">1976 NI 28</a>
<b>F4</b>	<a href="#">1986 NI 3</a>
<b>F5</b>	<a href="#">1968 c. 34 (N.I.)</a>
<b>F6</b>	<a href="#">1987 NI 2</a>

## Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F7</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the principal Order” means the Education and Libraries (Northern Ireland) Order 1986<sup>F8</sup>.

(3) In any provision of this Order “the appointed day” means the day appointed under Article 1(3) for the coming into operation of that provision.

(4) This Order shall be construed as one with the principal Order and accordingly Article 2(2) of that Order, in so far as it relates to the definition of words or expressions used in that Order and in this Order, shall apply for the purposes of this Order as it applies for the purposes of that Order.

<sup>F9</sup>(5) For the purposes of the Education Orders a maintained school is maintained by a board if the board has the responsibilities mentioned in Article 8(1) of the principal Order in relation to the school.

<b>F7</b>	<a href="#">1954 c. 33 (N.I.)</a>
<b>F8</b>	<a href="#">1986 NI 3</a>
<b>F9</b>	prosp. rep. by <a href="#">1998 NI 13</a>

## PART II

### GENERAL DUTY OF THE DEPARTMENT OF EDUCATION

#### General duty of the Department

- 3**<sup>F10</sup>. It shall be the duty of the Department—
- (a) to promote the education of the people of Northern Ireland;
  - (b) to secure the effective execution by boards and other bodies on which or persons on whom powers are conferred or duties imposed under the Education Orders of the Department's policy in relation to the provision of the education service.

**F10** certain functions transf. by SR 1999/481

## **F11**PART III

### THE CURRICULUM

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**F11** Pt. III repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(2), Sch. 3 Pt. 1

*Part IV (Arts. 36#45) rep. with saving by 1997 NI 5*

## **F41**PART V

### FINANCING SCHOOLS

**F41** prosp. rep. by 1998 NI 13

#### *Financing of controlled and maintained schools*

*Arts. 46#59 rep. by 2003 NI 12*

#### *Financing of voluntary grammar schools*

#### **F42** Grants to voluntary grammar schools

**60.**—(1) The Department may make grants to the Board of Governors of a voluntary grammar school towards expenditure incurred or to be incurred in carrying on the school, except—

- (a) expenditure incurred or to be incurred for the provision or alteration of the premises of the school; and
- (b) expenditure incurred or to be incurred for the provision of equipment for the school which is approved expenditure for the purposes of<sup>F43</sup> Article 116(1)(b)] of the principal Order.

<sup>F44</sup>(1A) The Department may make grants to the trustees of a voluntary grammar school of amounts equal to the costs of the trustees on foot of an approved contract.]

**Status:** Point in time view as at 01/04/2009.

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(2) Grants under this Article shall be made on such conditions (including conditions as to repayment) as the Department may determine.

[<sup>F45</sup>(3) The amount of a grant to be paid under paragraph (1) to the Board of Governors of a voluntary grammar school in any financial year shall be the sum of—

- (a) an amount equal to the budget share of the school for that year; and
- (b) such other amount determined by or in accordance with the common funding scheme as, in accordance with that scheme, falls to be paid by way of grant under paragraph (1).]

*Paras. (4)#(7E) rep. by 2003 NI 12*

(8) The Department may by order substitute for references in this Article and Article 61 to a financial year references to such other period as may be specified in the order.

[<sup>F45</sup>(9) This Article shall be construed as if it were contained in Part I of the Education and Libraries (Northern Ireland) Order 2003.]

**F42** prosp. rep. by [1998 NI 13](#)  
**F43** [1993 NI 12](#)  
**F44** [1997 NI 5](#)  
**F45** [2003 NI 12](#)

#### <sup>F46</sup>**Financial statements in respect of voluntary grammar schools**

**61.**—(1) Before the beginning of each financial year the Department shall prepare a statement of the financial provision it plans to make in that year for voluntary grammar schools.

(2) A statement under paragraph (1) in relation to a financial year shall contain[<sup>F47</sup> such particulars as the Department may determine with respect to the financial provision the Department plans to make in that year for voluntary grammar schools].

- (3) After the end of each financial year the Department shall prepare a statement of—
  - (a) the total amount of all grants actually made under Article 60 in that year;
  - (b) the amount of the grants actually made under Article 60 in that year to each voluntary grammar school.

(4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may determine.

(5) The Department shall furnish the Board of Governors of each voluntary grammar school with a copy of each statement prepared by it under this Article.

(6) The Board of Governors of each such school shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

*Para. (7) rep. by 2003 NI 12*

**F46** prosp. rep. by [1998 NI 13](#)  
**F47** [2003 NI 12](#)

*Arts. 62#63 rep. by 2003 NI 12*

**PART VI**  
**INTEGRATED EDUCATION**  
**CHAPTER I**  
**GENERAL FUNCTIONS OF DEPARTMENT AND BOARDS**

**General functions of Department and boards in relation to integrated education**

**64.**—(1) It shall be the duty of the Department to encourage and facilitate the development of integrated education, that is to say the education together at school of Protestant and Roman Catholic pupils.

(2) The Department may, subject to such conditions as it thinks fit, pay grants to any body appearing to the Department to have as an objective the encouragement or promotion of integrated education.

(3) It shall be the duty of a board to provide free of charge to any person seeking it advice and information about—

- (a) the procedures for acquisition by a school of controlled integrated status;
- (b) the implications for a school of the acquisition of that status.

**CHAPTER II**  
**GRANT#MAINTAINED INTEGRATED SCHOOLS**

*Duty of Department to maintain grant#maintained integrated schools*

**<sup>F48</sup>Duty of Department to maintain grant#maintained integrated schools**

**65.**—(1) Subject to this Chapter, it shall be the duty of the Department to maintain any school under the control and management of a Board of Governors incorporated under this Chapter.

(2) For the purposes of this Chapter, the duty of the Department to maintain a school is a duty to make such payments in respect of expenditure incurred or to be incurred in carrying on the school as are required by Article 77.

(3) A school to which the Department's duty under this Article for the time being applies shall be known as a grant#maintained integrated school.

**F48** prosp. rep. by [1998 NI 13](#)

*Management of grant#maintained integrated schools*

**Management of grant#maintained integrated schools**

**66.**—(1) Each grant#maintained integrated school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 5.

(2) The scheme of management for a grant#maintained integrated school shall require the Board of Governors to use its best endeavours, in exercising its functions under the Education Orders, to ensure that the management, control and ethos of the school are such as are likely to attract to the school reasonable numbers of both Protestant and Roman Catholic pupils.

**Status:** Point in time view as at 01/04/2009.

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## Powers of Board of Governors

67.—(1) Subject to the provisions of this Article and to any provision of the scheme of management for the school, section 19 of the Interpretation Act (Northern Ireland) 1954<sup>F49</sup> shall apply to the Board of Governors of a grant#maintained integrated school.

(2) Subject as aforesaid, the Board of Governors of such a school shall have power to do anything which appears to it to be necessary or expedient for the purpose of or in connection with the management and control of the school, including in particular power to assume the management and control, as from the incorporation date in relation to the school, of the school as constituted immediately before that date, to manage and control the school as a school of the same category (that is to say primary, grammar or secondary, other than grammar) as the school immediately before it became a grant#maintained integrated school, and for those purposes to receive any property, rights and liabilities transferred to it under Article 75.

(3) The power of the Board of Governors under section 19(1)(a)(iv) of the Interpretation Act (Northern Ireland) 1954—

<sup>F50</sup>(a) does not include power to grant any mortgage, charge or other security in respect of any land; and

(b) in so far as it relates to the disposal of land, may only be exercised with the written consent of the Department.

(4) The Board of Governors of a grant#maintained integrated school shall have power to pay its members such travelling, subsistence and other allowances as may be determined by the Board of Governors and approved by the Department.

(5) The application of the seal of the Board of Governors of a grant#maintained integrated school shall be authenticated by the signature of the chairman of the Board of Governors or of some other member authorised either generally or specially by the Board of Governors to act for that purpose together with that of any other member.

**F49** 1954 c. 33 (N.I.)

**F50** 1954 c. 33 (N.I.)

### *Procedure for acquisition of grant#maintained integrated status*

#### **Schools eligible for grant#maintained integrated status**

68.—(1) Subject to paragraphs (2) to (4), any controlled, voluntary or independent school is for the purposes of this Chapter eligible for grant#maintained integrated status.

(2) The following are not eligible for grant#maintained integrated status, namely—  
*Sub-para. (a) rep. by 1998 NI 13*

(b) a special school;

*Sub-para. (c) rep. by 1993 NI 12*

[<sup>F51</sup>(d) a school established in a hospital.]

(3) A controlled or voluntary school is not eligible for grant#maintained integrated status if a proposal to discontinue the school has been approved by the Department under Article 14(7) of the principal Order.

(4) A voluntary school is not eligible for grant#maintained integrated status if notice of the trustees' intention to discontinue the school has been given under Article 16(1) of the principal Order and has not been withdrawn.

F51 1993 NI 12

### Initiation of procedure for acquisition of grant#maintained integrated status by existing school

69.—(1) Subject to paragraph (5), in the case of any controlled or voluntary school which is eligible for grant#maintained integrated status, a ballot of parents on the question of whether grant#maintained integrated status should be sought for the school shall be held in accordance with Article 70 if either—

- [<sup>F52</sup>(a) the Board of Governors decides by a resolution passed at a meeting of that Board to hold such a ballot; or]
- (b) the Board of Governors receives a written request to hold such a ballot which meets the requirements of paragraph (2).

(2) Those requirements are that the request must be signed, or otherwise endorsed in such manner as the Department may approve, by a number of parents of registered pupils at the school equal to at least twenty per cent. of the number of registered pupils at the school on the date on which the request is received.

*Para. (3) rep. by 1996 NI 1*

(4) Subject to paragraph (5), on the passing of [<sup>F52</sup> a resolution under] paragraph (1)(a) or (as the case may be) on receipt of any such request as is mentioned in paragraph (1)(b) it shall be the duty of the Board of Governors—

- (a) to secure that a ballot is held in accordance with Article 70 not earlier than twenty#eight days and not later than [<sup>F53</sup> three months] or such longer period as the Department may approve after the date on which the <sup>F54</sup> . . . resolution was passed or the request was received; and
- (b) to give notice in writing that such a ballot is to be held [<sup>F52</sup> to—
  - (i) the relevant board;
  - (ii) if the school is a voluntary school, the trustees of the school;
  - (iii) if the school is a Catholic maintained school, the Council for Catholic Maintained Schools.]

(5) Paragraphs (1) and (4) shall not apply if in the case of the school in question a ballot has been held in accordance with Article 70 earlier in the same school year as that in which [<sup>F52</sup> the resolution under paragraph (1)(a)] is passed or (as the case may be) the request is received, unless the Department gives consent in writing for a new ballot to be held.

(6) A request such as is mentioned in paragraph (1)(b) shall be taken as having been received by a Board of Governors if given or sent to the chairman or secretary of the Board.

(7) Subject to paragraph (8), it shall be the duty of the Board of Governors of any controlled or voluntary school which is eligible for grant#maintained integrated status, at the request of any parent of a registered pupil at the school, to make available to the parent for inspection (at all reasonable times and free of charge) at the school, and to supply the parent with a copy of, a list containing the name and address of every person who is known to the Board of Governors to be such a parent if the request is made—

- (a) in connection with any proposal that a ballot should be held in accordance with Article 70; or
- (b) where the Board of Governors is under a duty by virtue of this Article or Article 70(8) to secure that such a ballot is held, in connection with the holding of the ballot.

**Status:** Point in time view as at 01/04/2009.

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(8) A Board of Governors shall not disclose to a parent under paragraph (7) the name and address of any person unless that person has consented in writing to the disclosure of that information; and accordingly the name and address of any person who has not so consented shall be excluded from the list mentioned in that paragraph.

(9) A Board of Governors which in pursuance of paragraph (7) supplies copies of the list there mentioned may charge such fee as it thinks fit (not exceeding the cost of supply) in respect of each copy so supplied.

(10) For the purposes of this Article, it shall be for the Board of Governors to determine any question whether a person is a parent of a registered pupil at the school.

**F52** 1996 NI 1  
**F53** 1993 NI 12  
**F54** 1996 NI 1

### Ballot of parents

**70.**—(1) Where the Board of Governors of any school is under a duty by virtue of Article 69 to secure that a ballot is held in accordance with this Article, it shall secure that all necessary arrangements for the ballot are made by such body as may be prescribed (“the prescribed body”).

(2) The arrangements shall provide for a secret postal ballot.

(3) It shall be the duty of the Board of Governors to secure that the prescribed body takes such steps as are reasonably practicable to secure that every person who is eligible to vote in the ballot is—

- (a) given such information about the procedure for and consequences of acquisition of grant# maintained integrated status for a school as may reasonably be expected to enable him to form a proper judgment as to whether or not such status should be sought for the school, including, in particular, the information mentioned in paragraph (4);
- (b) informed that he is entitled to vote in the ballot; and
- (c) given an opportunity to do so.

(4) The information referred to in paragraph (3)(a) is—

- (a) a general explanation of the provisions of this Part relating to—
  - (i) the procedure for acquisition of grant# maintained integrated status for a school;
  - (ii) the constitution and powers of the Board of Governors of such a school; and
  - (iii) the conduct and funding of such a school;
- (b) the date that will be included in any proposal for acquisition of grant# maintained integrated status submitted in respect of the school under Article 71(1) if the result of the ballot is in favour of seeking grant# maintained integrated status as the proposed date of implementation of the proposal;
- (c) such other information as the Department may direct.

(5) Where the Board of Governors of any school is under a duty by virtue of Article 69 to secure that a ballot is held in accordance with this Article, it shall make available to every person employed to work at the school for inspection (at all reasonable times and free of charge) at the school a document containing the information required by paragraphs (3)(a) and (4) to be given to persons eligible to vote in the ballot.

(6) In determining the arrangements it requires to be made by the prescribed body for the purposes of the ballot the Board of Governors shall take into account any guidance given by the Department as to the arrangements it considers appropriate for ballots held in accordance with this Article.



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

(8) Where in the case of any ballot held in respect of a school in accordance with this Article other than one held by virtue of this paragraph (“the first ballot”) the total number of votes cast in the ballot (disregarding spoiled votes) by persons eligible to vote in the ballot is less than fifty per cent. of the number of persons so eligible, it shall be the duty of the Board of Governors to secure that another ballot (“the second ballot”) is held before the end of the period of fourteen days beginning with the day on which the total number of votes cast in the first ballot is determined.

(9) In any case to which paragraph (8) applies—

- (a) the first ballot shall be disregarded for the purposes of Article 71(1); and
- (b) subject to paragraph (10), the provisions of this Article shall apply as they apply in a case where the Board of Governors of a school is under a duty by virtue of Article 69 to secure that a ballot is held in accordance with this Article.

(10) In any such case—

- (a) those provisions shall apply with the omission of paragraphs (3)(a) and (4); and
- (b) paragraph (5) shall be read as if the information there referred to were the information given for the purposes of the first ballot.

(11) If it appears to the Department—

- (a) that any requirements of this Article have been contravened in the case of any ballot held in purported compliance with this Article;
- (b) that the arrangements for any ballot so held did not accord with any guidance given by it for the purposes of this Article; or
- (c) that the Board of Governors of any school has acted unreasonably in the discharge of its duties under this Article,

it may by notice in writing given to the Board of Governors declare the ballot void and require that a fresh ballot be held in accordance with this Article before such date as it may specify in the notice.

(12) Where a ballot is held in respect of a school in accordance with this Article, the Department may pay, or reimburse the Board of Governors of the school in respect of, the whole or any part of the expenses incurred by the Board of Governors in respect of the ballot.

(13) The making of any payments under paragraph (12) shall be subject to such conditions as the Department thinks fit.

(14) For the purposes of this Article, a person is eligible to vote in any ballot held in respect of a school in accordance with this Article if he is—

- (a) known to the Board of Governors to be a parent of a registered pupil at the school; and
- (b) named as a parent of such a pupil in the register kept in accordance with Article 48 of the principal Order in the case of the school, as that register has effect on the date immediately following the end of the period of fourteen days beginning with the date on which the relevant resolution or request was passed or received by the Board of Governors.

(15) For the purposes of sub#paragraph (a) of paragraph (14) it shall be for the Board of Governors to determine any question whether a person is a parent of a registered pupil at the school; and in sub#paragraph (b) of that paragraph the reference to the relevant resolution or request is a reference to the resolution or request (mentioned in Article 69(4)) by reference to which the ballot is required to be held or, where the ballot is a second ballot under paragraph (8), by reference to which the first ballot was required to be held.

*Status: Point in time view as at 01/04/2009.*

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## **Proposals for acquisition of grant#maintained integrated status**

71.—(1) Where in the case of any controlled or voluntary school which is eligible for grant#maintained integrated status the result of a ballot held in accordance with Article 70 shows a simple majority of votes cast in the ballot by persons eligible to vote in the ballot (within the meaning of that Article) in favour of seeking grant#maintained integrated status for the school, it shall be the duty of the Board of Governors of the school to submit a proposal for the acquisition of grant#maintained integrated status for the school to the relevant board.

(2) Where—

- (a) a person proposes to establish a new grant#maintained integrated school; or
- (b) the proprietor of an independent school proposes to seek grant#maintained integrated status for the school,

he shall submit the proposal to the relevant board.

(3) A proposal under paragraph (1) or (2) shall be in such form and contain such particulars (including the proposed date of implementation) as may be required by the Department<sup>F55</sup> and shall be submitted to the relevant board—

- (a) in the case of a proposal under paragraph (1), within such period as may be so required; and
- (b) in the case of a proposal under paragraph (2), not later than the beginning of such period immediately before the proposed date of implementation as the Department may specify.]

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

(5) A proposal submitted to a board under paragraph (1) or (2) may not be withdrawn except with the consent of the Department and subject to such conditions as it may impose (which may, in particular, require a further proposal to be submitted under this Article within such period as it may specify).

<sup>F55</sup>(6) The relevant board shall, within 21 days of receiving a proposal under paragraph (1) or (2)—

- (a) submit the proposal to the Department; and then
- (b) publish, by advertisement in one or more newspapers circulating in the area affected by the proposal, a notice stating—
  - (i) such particulars of the nature of the proposal as may be required by the Department;
  - (ii) that the proposal has been submitted to the Department;
  - (iii) that a copy of the proposal can be inspected at a specified place; and
  - (iv) 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.

(6A) The relevant board shall furnish a copy of the proposal to any person, on application and payment of such reasonable sum as the board may determine.

(6B) The relevant board may, before the expiry of the period specified in the notice under paragraph (6)(b)(iv), submit its views on the proposal to the Department.

(7) Subject to paragraphs (8), (9) and (10), the Department after—

- (a) considering any objections to a proposal made to it within the period specified in the notice under paragraph (6)(b)(iv);
- (b) considering any views of the relevant board submitted to it under paragraph (6B); and
- (c) making such modifications, if any, in the proposal as, after consultation with the Board of Governors or person making the proposal, it considers necessary or expedient,

may approve the proposal and inform that Board of Governors or person accordingly.]

(8) The Department shall not approve a proposal under this Article in relation to a school unless it appears to the Department that, if the school were to become, or be established as, a grant#maintained integrated school, the school would be likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

(9) The Department shall not approve a proposal under paragraph (1) in relation to a school unless the school was eligible for grant#maintained integrated status on the date on which the proposal was submitted under that paragraph.

(10) The approval of the Department to a proposal made under paragraph (2) may be granted subject to such conditions as the Department may think fit.

(11) Where the Department rejects any proposal under paragraph (1) in relation to a school, it may require the Board of Governors of the school to submit a further proposal to the relevant board under that paragraph within such period as it may direct.

(12) If a proposal under paragraph (1) or (2)(b) in respect of any school is approved by the Department, Schedule 6 shall have effect in relation to the transition of the school to grant#maintained integrated status.

(13) If a proposal under paragraph (2)(a) is approved by the Department, the Department may by order made at any time on or after the date on which it approves the proposal and before the incorporation date in relation to the school make such provision as it considers appropriate in connection with the establishment of the school as a grant#maintained integrated school and the constitution of a Board of Governors for the school in accordance with Schedule 5.

F55 1996 NI 1

### **Incorporation of Board of Governors**

72. If a proposal under paragraph (1) or (2) of Article 71 in respect of any school is approved by the Department, the Board of Governors of the school constituted in accordance with Schedule 5 shall on the proposed date of implementation of the proposal become a body corporate.

### **Effect of pending procedure for acquisition of grant#maintained integrated status**

73.—(1) This Article applies to a controlled or voluntary school during any period when the procedure under this Chapter for acquisition of grant#maintained integrated status is pending in relation to the school.

(2) For the purposes of this Article that procedure is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).

(3) For those purposes that procedure is to be regarded as initiated in relation to any school on any occasion<sup>F56</sup> on receipt by the relevant board, in the case of a controlled school, or the trustees of the school, in the case of a voluntary school, of notice under Article 69(4)(b)].

<sup>F56</sup>(4) For those purposes, that procedure, as initiated on any occasion, is to be regarded as terminated if—

- (i) the result of the ballot to which the notice under Article 69(4)(b) relates] does not show a majority in favour of seeking grant#maintained integrated status for the school;
- (ii) a proposal for acquisition of such status for the school which is required to be submitted under Article 71 by reference to the result of that ballot, or any proposal required in substitution for that proposal, is rejected by the Department or withdrawn; or
- (iii) a Board of Governors is incorporated for the school under Article 72.

**Status:** Point in time view as at 01/04/2009.

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(5) Where Article 70(8) applies in the case of any such ballot, the references in [F56 paragraph (4)] to the result of that ballot shall be read as references to the result of the second ballot required by that paragraph.

(6) The reference in paragraph (4) to a proposal required in substitution for any proposal for acquisition of grant#maintained integrated status for any school which is required to be submitted under Article 71 by reference to the result of a ballot held in accordance with Article 70 (“the original proposal”) is a reference to any proposal required to be submitted under paragraph (5) or (11) of Article 71 on withdrawal or (as the case may be) rejection of—

- (a) the original proposal; or
- (b) any further proposal required to be submitted under either of those paragraphs with respect to the school without a further ballot;

and a proposal under that Article with respect to a school shall not be treated for the purposes of paragraph (4) as rejected in any case where the Department imposes a requirement under paragraph (11) of that Article or as withdrawn in any case where it imposes a requirement under paragraph (5) of that Article.

(7) Except with the consent of the Department, the trustees of a voluntary school to which this Article for the time being applies shall not—

- (a) dispose of any property used wholly or partly for the purposes of the school; or
- (b) enter into a contract to dispose of any such property.

(8) Paragraph (7) does not apply in relation to a disposal which is made in pursuance of a contract entered into, or an option granted, before the procedure mentioned in paragraph (1) was initiated in relation to the school.

(9) A disposal or contract shall not be invalid or void by reason only that it has been made or entered into in contravention of this Article and a person acquiring property, or entering into a contract to acquire property, from the trustees of a voluntary school shall not be concerned to enquire whether any consent required by this Article has been given.

(10) During any period when this Article applies to a school—

- (a) no resolution shall be passed by the Board of Governors under Article 69(1)(a) (as applied by Article 91);
- (b) no request shall be made to the Board of Governors under Article 69(1)(b) (as so applied).

F56 1996 NI 1

*Proposals for alteration, etc. of schools eligible for grant#maintained integrated status*

#### **Proposals for alteration, etc. of schools eligible for grant#maintained integrated status**

74.—(1) Before formulating in respect of any controlled school which is eligible for grant#maintained integrated status any proposal under Article 14(1)(c), (d) or (e) of the principal Order, a board shall consult the Board of Governors of the school.

(2) No proposal shall be submitted under Article 14 of the principal Order in respect of any school in respect of which a proposal for acquisition of grant#maintained integrated status has been approved.

(3) Paragraph (4) applies in any case where either—

- (a) after a proposal for acquisition of grant#maintained integrated status has been first submitted to the Department under Article 71 in respect of any school which is eligible for grant#maintained integrated status but before that proposal is withdrawn or determined a

proposal in respect of the school is submitted to the Department under Article 14 of the principal Order; or

- (b) after a proposal in respect of any such school has been submitted to the Department under Article 14 of the principal Order but before that proposal is withdrawn or determined a proposal for acquisition of grant#maintained integrated status for the school is first submitted to the Department under Article 71.

(4) In any case to which this paragraph applies, the Department shall consider both proposals together but shall not determine the proposal under Article 14 until it has made its determination with respect to the proposal for acquisition of grant#maintained integrated status.

(5) Where—

- (a) a proposal under Article 14(1)(d) or (e), (2)(d) or (e) or (3)(c) of the principal Order with respect to any school has been approved under Article 14(7) of that Order; and
- (b) the school becomes a grant#maintained integrated school before that proposal has been implemented,

that proposal shall be treated for the purposes of this Part as if it had been published and approved under Article 79.

#### *Transfer of property and sta#*

### **Transfer of property, etc. to Board of Governors of grant#maintained integrated school**

**75.**—(1) Subject to the following provisions of this Article, on the incorporation date in relation to a grant#maintained integrated school which immediately before that date was a controlled school—

- (a) all land or other property which, immediately before that date, was property used or held by the relevant board or the Department for the purposes of the school;
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by that board or the Department for those purposes; and
- (c) any property, rights and liabilities of the former Board of Governors of the school,

shall be transferred to, and by virtue of this Order vest in, the Board of Governors of the grant# maintained integrated school.

(2) Subject to the following provisions of this Article, on the incorporation date in relation to a grant#maintained integrated school which immediately before that date was a voluntary school—

- (a) all land or other property which, immediately before that date, was property held by the trustees of the school for the purposes of the school;
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by those trustees for those purposes; and
- (c) any property, rights and liabilities of the former Board of Governors of the school,

shall be transferred to, and by virtue of this Order vest in, the Board of Governors of the grant# maintained integrated school.

(3) Subject to the following provisions of this Article, on the incorporation date in relation to a grant#maintained integrated school which immediately before that date was an independent school—

- (a) all land or other property which immediately before that date was property held by the trustees or the proprietor of the school for the purposes of the school; and
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by those trustees or that proprietor for those purposes,

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shall be transferred to, and by virtue of this Order vest in, the Board of Governors of the grant# maintained integrated school.

(4) Paragraphs (1) to (3) shall not apply to rights and liabilities under any contract of employment.

(5) If before the incorporation date in relation to a school mentioned in paragraph (2) or paragraph (3) the Department so directs—

(a) sub#paragraph (a) of that paragraph shall not apply to land held by the trustees of the school as mentioned in that sub#paragraph; and

(b) sub#paragraph (b) of that paragraph shall not apply to rights and liabilities acquired or incurred in relation to or in connection with that land;

and in deciding whether or not to give a direction under this paragraph the Department shall consult the trustees of the school.

(6) Any land or other property transferred to the Board of Governors of a grant#maintained integrated school under this Article which immediately before the incorporation date was held on trust shall vest in that Board of Governors as trustees on the trusts applicable immediately before that date under any trust deed regulating the use of the land or other property for the purposes of the school.

(7) The Department may by regulations make provision for the payment of compensation by the Department to the trustees of a voluntary school in respect of land or other property held by them immediately before the incorporation date and transferred under paragraph (2) and such regulations may provide—

(a) for the amount of compensation to be such as may be agreed between the Department and the trustees or, in default of agreement, such as may be determined by the Lands Tribunal;

(b) for the amount of compensation to be reduced where grants have been paid by the Department in respect of the land or other property so transferred and for the calculation of any such reduction.

(8) On the incorporation date in relation to a grant#maintained integrated school which immediately before that date was a controlled school, the duty of the relevant board to maintain and manage the school shall be extinguished and the school shall accordingly cease to be a controlled school for the purposes of the Education Orders.

(9) On the incorporation date in relation to a grant#maintained integrated school which immediately before that date was a voluntary school, the school shall cease to be a voluntary school for the purposes of the Education Orders.

(10) On the incorporation date in relation to a grant#maintained integrated school which immediately before that date was an independent school, the school shall cease to be an independent school for the purposes of the Education Orders.

(11) For the purposes of this Article any interest in a dwelling house or other residence which, immediately before the incorporation date in relation to a grant#maintained integrated school, is used or held for occupation by a person employed to work at the school shall be treated as an interest used or held for the purposes of the school.

(12) In this Article “the former Board of Governors” means, in relation to a grant#maintained integrated school, the Board of Governors of the school immediately before the incorporation date in relation to the school.

### **Transfer of sta# to grant#maintained integrated school**

76.—(1) Subject to paragraph (3), this Article applies to any person who—

- (a) immediately before the incorporation date in relation to a grant#maintained integrated school which is then a voluntary school is employed by the Board of Governors of the school; or
  - (b) immediately before the incorporation date in relation to a grant#maintained integrated school—
    - (i) is employed by the relevant board or the Council for Catholic Maintained Schools to work solely at the school; or
    - (ii) is employed by that board to work at the school and is designated for the purposes of this Article by an order made by the Department.
- (2) A person employed by a board in connection with the provision of meals shall not be regarded for the purposes of paragraph (1)(b) as employed to work solely at a school unless the meals are provided solely for consumption by persons at the school.
- (3) This Article does not apply to—
- (a) any person employed as mentioned in paragraph (1)(a) or (b) whose contract of employment terminates on the day immediately preceding the incorporation date;
  - (b) any person employed as mentioned in paragraph (1)(b) who before that date has been—
    - (i) appointed or assigned by the relevant board or the Council for Catholic Maintained Schools to work solely at another school as from that date; or
    - (ii) withdrawn from work at the school with effect as from that date.
- (4) A person who before the incorporation date has been appointed or assigned by the relevant board or the Council for Catholic Maintained Schools to work at the school as from that date shall be treated for the purposes of this Article as if he had been employed by that body immediately before that date to do such work at the school as he would have been required to do on or after that date under his contract of employment with that body.
- (5) References below in this Article to the former employer are references—
- (a) in relation to a person to whom this Article applies by virtue of paragraph (1)(a), to the Board of Governors of the school immediately before the incorporation date; and
  - (b) in relation to a person to whom this Article applies by virtue of paragraph (1)(b), to the relevant board or the Council for Catholic Maintained Schools (as the case may be).
- (6) The contract of employment between a person to whom this Article applies and the former employer shall have effect from the incorporation date as if originally made between him and the Board of Governors of the grant#maintained integrated school.
- (7) Without prejudice to paragraph (6)—
- (a) all the former employer's rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the Board of Governors of the grant#maintained integrated school on the incorporation date; and
  - (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to that Board of Governors.
- (8) Paragraphs (6) and (7) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.
- (9) An order under this Article may designate a person either individually or as a member of a class or description of employees.

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### Financing of grant#maintained integrated schools

#### <sup>F57</sup>Maintenance grants and capital grants

77.—(1) The payments the Department is required to make in pursuance of its duty to maintain a grant#maintained integrated school are grants to the Board of Governors of the school in respect of expenditure other than expenditure of a capital nature incurred or to be incurred in carrying on the school by the Board of Governors in the financial year to which any such grant relates (to be known as maintenance grants).

[<sup>F58</sup>(2) The amount of the maintenance grant to be paid under paragraph (1) to the Board of Governors of a grant-maintained integrated school in any financial year shall be the sum of—

- (a) an amount equal to the budget share of the school for that year; and
- (b) such other amount determined by or in accordance with the common funding scheme as, in accordance with that scheme, falls to be paid by way of grant under paragraph (1).]

*Paras. (3)#(7D) rep. by 2003 NI 12*

(8) Regulations may provide for the payment by the Department to the trustees or Board of Governors of a grant#maintained integrated school of grants (to be known as “capital grants”) in respect of approved expenditure of a capital nature incurred or to be incurred for the purposes of the school of any class or description specified in the regulations.

(9) The amount of any capital grant shall be equal to 100 per cent. of the expenditure in respect of which it is paid.

(10) [<sup>F59</sup>Where school premises are provided or altered in pursuance of an approved contract, the costs of the Board of Governors on foot of that contract shall for the purposes of this Article be regarded as expenditure which is not of a capital nature; but, subject to that, the descriptions] of expenditure which are to be regarded for the purposes of this Article as expenditure of a capital nature shall be such as may be determined by or in accordance with regulations.

(11) Maintenance and capital grants shall be made on such conditions<sup>F60</sup> . . . as the Department may determine.

*Para. (12) rep. by 2003 NI 12*

(13) The Department may by order substitute for references in this Article and Article 78 to a financial year references to such other period as may be specified in the order.

[<sup>F58</sup>(14) This Article shall be construed as if it were contained in Part I of the Education and Libraries (Northern Ireland) Order 2003.]

**F57** prosp. rep. by [1998 NI 13](#)

**F58** [2003 NI 12](#)

**F59** [1997 NI 5](#)

**F60** [1993 NI 12](#)

#### <sup>F61</sup>Financial statements

78.—(1) Before the beginning of each financial year the Department shall prepare a statement of the financial provision it plans to make in that period for grant#maintained integrated schools.

(2) A statement under paragraph (1) in relation to a financial year shall contain[<sup>F62</sup> such particulars as the Department may determine with respect to the financial provision the Department plans to make in that year for grant-maintained integrated schools].

(3) After the end of each financial year the Department shall prepare a statement of—



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- (a) the total amount of all maintenance grants actually made under Article 77 in that year;
- (b) the amount of the maintenance grants actually made under Article 77 in that year to each grant#maintained integrated school.

(4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may determine.

(5) The Department shall furnish the Board of Governors of each grant#maintained integrated school with a copy of each statement prepared by it under this Article.

(6) The Board of Governors of each such school shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

*Para. (7) rep. by 2003 NI 12*

**F61** prosp. rep. by 1998 NI 13  
**F62** 2003 NI 12

#### *Making of significant change to grant#maintained integrated schools*

#### **Significant changes to grant#maintained integrated schools**

**79.**—(1) Subject to paragraph (2), where the Board of Governors of a grant#maintained integrated school proposes—

- (a) to make a significant change in the character or size of the school; or
- (b) to make any other change which would have a significant effect on another grant#aided school,

it shall submit the proposal to the board for the area in which the school is situated and that board shall submit the proposal to the Department together with its views thereon.

(2) Paragraphs (4) to (7), (9), (9A), (9B) and (10) of Article 14 of the principal Order shall apply in relation to a proposal under paragraph (1) as they apply in relation to a proposal under paragraph (2) of that Article; but the Department shall not approve any proposal under Article 14(7) of the principal Order as so applied if in the opinion of the Department the implementation of that proposal would render the school less likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

#### *Discontinuance of grant#maintained integrated schools*

#### **Discontinuance by Board of Governors**

**80.**—(1) The Board of Governors of a grant#maintained integrated school shall not discontinue the school except in accordance with this Article.

- (2) Where the Board of Governors of such a school—
  - (a) decides by a resolution passed at a meeting of that body to discontinue the school; and
  - (b) confirms that decision by a resolution passed at a subsequent meeting of that body held not less than twenty#eight days after that at which the first resolution was passed;

it shall, subject to paragraphs (3) and (4), give at least two years' notice of its intention to discontinue the school to the Department and to the board for the area in which the school is situated.

*Status: Point in time view as at 01/04/2009.*

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(3) No notice given under paragraph (2) 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 by a board or, before 1st October 1973, by a former local education authority.

(4) The requirement to give notice under paragraph (2) shall not apply where the Department and the board for the area in which the school is situated agree to dispense with that notice.

(5) If, during the period of a notice given under paragraph (2) in respect of a school, the Board of Governors of the school informs the Department that it is 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.

(6) Where—

(a) the period of a notice given under paragraph (2) has expired; or

(b) the requirement to give that notice has been dispensed with under paragraph (4),

the Board of Governors may submit a proposal to discontinue the school to the board for the area in which the school is situated and that board shall submit the proposal to the Department together with its views thereon.

(7) Paragraphs (4) to (7), (9), (9A), (9B) and (10) of Article 14 of the principal Order shall apply in relation to a proposal under paragraph (6) as they apply in relation to a proposal under paragraph (2) of that Article.

### <sup>F63</sup> **Withdrawal of grant by Department**

**81.**—(1) The Department may cease to maintain a grant#maintained integrated school by giving notice of its intention to do so to the Board of Governors of the school under this Article; and on the date specified in any such notice as the date on which the Department intends to cease to maintain the school the Department's duty to maintain the school shall cease.

(2) Subject to the following provisions of this Article—

(a) a notice under this Article may not specify as the date on which the Department intends to cease to maintain such a school a date falling less than two years after the date of the notice; and

(b) before giving such a notice the Department shall consult—

(i) the Board of Governors of the school;

(ii) the board for the area in which the school is situated; and

(iii) the Council for Catholic Maintained Schools.

(3) Paragraph (2) shall not apply where the Department is satisfied, in the case of any grant#maintained integrated school, that the school as currently constituted or conducted is unsuitable to continue as a grant#maintained integrated school on all or any of the following grounds—

(a) that the number of registered pupils at the school is too small for sufficient and suitable instruction to be provided for them at reasonable cost;

(b) that the Board of Governors has failed for a significant period of time to carry out its duties under Part III;

(c) that the Board of Governors has been guilty of substantial or persistent failure to comply or secure compliance with any other requirement imposed by or under this Order or any other statutory provision;

(d) that the school is not attended by reasonable numbers of both Protestant and Roman Catholic pupils.

(4) In any case within paragraph (3), the Department may give to the Board of Governors of the school a notice stating the grounds on which it considers that the school as currently constituted or conducted is unsuitable to continue as a grant#maintained integrated school together with full particulars of the matters relevant to each such ground.

(5) Where any of the matters of which particulars are given in a notice under paragraph (4) are stated in the notice to be in the opinion of the Department irremediable, the notice shall also state that the Department intends to cease to maintain the school on a date specified in the notice.

(6) Where paragraph (5) does not apply in the case of any notice under paragraph (4), the notice shall—

- (a) state that the Department intends to cease to maintain the school unless the matters of which particulars are given in the notice are remedied;
- (b) specify the measures necessary in the opinion of the Department to remedy those matters; and
- (c) specify the time, not being less than three months after the date of the notice, within which the Board of Governors is required to take those measures.

(7) Where the Board of Governors of a grant#maintained integrated school fails to take the measures required by a notice under paragraph (4) within the time specified in the notice or allowed by any previous notice under this paragraph, the Department shall within the period of two months beginning with the date next following the end of that time either—

- (a) give notice to the Board of Governors extending the time within which those measures are required to be taken; or
- (b) after consulting the board for the area in which the school is situated, give notice that it intends to cease to maintain the school on a date specified in the notice.

(8) The Department may by notice given to the Board of Governors—

- (a) withdraw any notice under paragraph (1), (4) or (7)(b); or
- (b) vary—
  - (i) any notice under paragraph (1) or (7)(b); or
  - (ii) any notice under paragraph (4) to which paragraph (5) applies, by substituting a later date for the date for the time being specified in the notice as the date on which it intends to cease to maintain the school; or
- (c) vary any notice under paragraph (4) to which paragraph (6) applies, so far as relates to the measures required by the notice to remedy the matters of which particulars are given in the notice.

(9) If by virtue of paragraph (8)(c) the Department varies any notice under paragraph (4) so as to require di#erent measures to be taken it shall also substitute for the time specified in the notice as the time within which the Board of Governors is required to take the measures specified in the notice as varied a time ending—

- (a) not less than three months after the date of the notice of variation; and
- (b) where the time so specified has been extended under paragraph (7), not earlier than that time as so extended.

(10) Any variation under paragraph (9) of the time specified in a notice under paragraph (4) is without prejudice to any further extension of that time under paragraph (7).

(11) Any notice under this Article shall be in writing; and references in this Article to the date of any such notice given to a Board of Governors under this Article are references to the date on which it is given to the Board of Governors.

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**F63** prosp. rep. by 1998 NI 13

### *Winding up and disposal of property*

#### **Winding up**

**82.**—(1) Where, in the case of any grant#maintained integrated school, the Department has—

- (a) approved a proposal for discontinuance of the school made under Article 80; or
- <sup>F64</sup>(b) given notice to the Board of Governors of the school under Article 81 specifying a date on which it intends to cease to maintain the school;

the Department may by order make provision for the winding up of the Board of Governors of the school and the disposal of the school property.

(2) An order under this Article may—

- (a) set out a timetable for the winding up;
- (b) make provision with respect to the exercise of the functions of the Board of Governors in relation to the school, including in particular—
  - (i) provision requiring the Board of Governors in the exercise of those functions to comply with any directions given by the Department;
  - (ii) provision authorising any of those functions to be exercised by any member of the Board of Governors specified in the order; and
  - (iii) provision for the application of the seal of the Board of Governors to be authenticated by the signature of any person so specified;
- (c) make provision for conferring or imposing functions on the Board of Governors in relation to the winding up and the management and disposal of the school property;
- (d) make any provision authorised by Article 83 for or in connection with the transfer of the school property;
- (e) make provision with respect to the discharge of the liabilities of the Board of Governors and the payment of the costs of the winding up;
- (f) require the Board of Governors to give to persons employed by it notice terminating their contracts of employment as from a date specified in the order; and
- (g) appoint a date on which the Board of Governors is to be dissolved.

(3) Below in this Part—

- (a) references to a Board of Governors in liquidation are references to a Board of Governors in respect of which an order has been made under this Article; and
- (b) references, in relation to any such Board of Governors or the grant#maintained integrated school under, or formerly under, the management of any such body, to the dissolution date are references to the date appointed in relation to that Board of Governors by virtue of paragraph (2)(g).

(4) The Department may make grants to a Board of Governors in liquidation for the purpose of—

- (a) discharging any liabilities of that Board of Governors;
- (b) meeting any costs incurred by that Board of Governors for the purposes of the winding up under this Article.

(5) The Department may impose on a Board of Governors to which any such payment is made such requirements as it may from time to time determine (whether before, at or after the time when the payment in question is made).

(6) The Department shall not by an order under this Article appoint a date on which a Board of Governors in liquidation is to be dissolved unless it is satisfied that—

- (a) all liabilities of the Board of Governors (other than any liabilities which fall to be transferred under Article 83(6)) have been discharged;
- (b) all costs of the winding up have been met; and
- (c) any provision authorised by Article 83 or 84 which is possible and expedient in the circumstances of the case has been made and anything required to be done by the Board of Governors for the purposes of or in connection with any such provision has been done.

(7) In this Part—

- (a) references, in relation to a grant#maintained integrated school under, or formerly under, the management of a Board of Governors in liquidation, to the school property are references to—
  - (i) the premises used or formerly used for the purposes of the school;
  - (ii) any interest belonging to the Board of Governors or held by any trustees on trust for the purposes of the school in any dwelling house or other residence used or held or formerly used or held for occupation by a person employed to work at the school; and
  - (iii) all other equipment and property used or held or formerly used or held for the purposes of the school;
- (b) references to a grant#maintained integrated school formerly under the management of a Board of Governors in liquidation apply in circumstances where the school has been discontinued before the dissolution date and refer to the school as managed immediately before discontinuance (and “formerly” in heads (i) to (iii) of sub#paragraph (a) applies in the same circumstances and refers to the time immediately before the discontinuance of the school concerned).

F64 prosp. subst. by 1998 NI 13

### Transfer of school property

**83.**—(1) Where a proposal under Article 14 of the principal Order that a new school be established on the premises of a grant#maintained integrated school under the management of a Board of Governors in liquidation has been approved by the Department, then—

- (a) if the new school is to be a controlled school, an order under Article 82 may vest the school property, or any part of it, in the board which is to manage the school;
- (b) if the new school is to be a voluntary school, an order under Article 82 may vest the school property, or any part of it, in persons specified in the order to be held on trust for the purposes of the new voluntary school.

(2) Where a person proposes to establish a new independent school on the premises of a grant#maintained integrated school under the management of a Board of Governors in liquidation, an order under Article 82 may vest the school property, or any part of it, in that person.

(3) The vesting in any board or person under paragraph (1) or (2) of—

- (a) any of the school property of a grant#maintained integrated school which was a controlled school immediately before it became a grant#maintained integrated school; or
- (b) land in respect of which a direction was given under Article 75(5);

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shall be subject to the payment by that board or person of such an amount as the Department determines to be a fair consideration for the transfer of the property.

(4) In a case within paragraph (3)(a) the consideration is payable to the board by which the controlled school mentioned in that sub#paragraph was managed and in a case within paragraph (3) (b) the consideration is payable to the trustees from whom the land mentioned in that sub#paragraph is transferred.

(5) Where school property is held on trust for the purposes of a grant#maintained integrated school, an order made under Article 82 by virtue of paragraph (1) or (2) may vest the property in a board or person beneficially or on such trusts as appear to the Department to be appropriate.

(6) Where an order is made under Article 82 by virtue of paragraph (1) or (2) that order may provide for the transfer to the board or person to which or to whom any school property is transferred of such of the liabilities of the Board of Governors in liquidation as may be specified in the order.

### **Vesting of surplus assets**

**84.**—(1) Subject to paragraph (2), all school property of a grant#maintained integrated school under, or formerly under, the management of a Board of Governors in liquidation which has not been transferred under an order made under Article 82 shall, by virtue of this paragraph, be transferred to and vest in the Department on the dissolution date.

(2) Where the Department is satisfied as to the whole or any part of any such school property that it ought to be transferred to a board or any other person, the Department may by order made before the dissolution date vest that property in that board or person on the dissolution date, either beneficially or to be held on such trusts as the Department may specify.

(3) Without prejudice to the power of the Department under paragraph (2), any transfer of property under this Article shall be free of any trusts on which property is held before the transfer.

(4) Where land in respect of which a direction was given under Article 75(5) is vested in the Department, a board or any other person under this Article, there shall be payable by the Department, that board or that person (as the case may be) to the trustees from whom the land in question was transferred such an amount as the Department determines to be a fair consideration for the transfer of the property.

(5) Where—

- (a) any school premises are vested under paragraph (2) in a board; and
- (b) any person subsequently acquires those premises or any part of them from that board (whether compulsorily or otherwise),

the Department may require the board to pay to it the whole or any part of the consideration or purchase money paid in respect of the acquisition to meet, or contribute towards, the amount of grants paid by the Department under Article 82(4) to the Board of Governors of the school.

### *Miscellaneous and supplementary*

#### **<sup>F65</sup> Provision of benefits and services for pupils by boards**

**85.** Where—

- (a) a board is under a duty, or has power, to provide any benefits or services for pupils; and
- (b) the duty is to be performed, or the power may be exercised, both in relation to pupils at grant#maintained integrated schools and in relation to pupils at other grant#aided schools,

the board shall in performing the duty, or exercising the power, treat pupils at grant#maintained integrated schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than pupils at other grant#aided schools.

F65 prosp. rep. by 1998 NI 13

### **Variation of instrument of government relating to grant#maintained integrated school**

**86.**—(1) The Department may by order make such modifications of any instrument of government relating to any school as, after consultation with the Board of Governors of the school and the trustees (if any), appear to be requisite—

- (a) in consequence of the approval of a proposal for acquisition of grant#maintained integrated status for the school; or
- (b) for removing any inconsistency between the provisions of that instrument and any provisions included or proposed to be included in the scheme of management for the school which it appears to the Department to be expedient to remove in the interests of the school.

(2) Any modification made by an order under this Article may be made to have permanent effect or to have effect for such period as may be specified in the order.

(3) Any provision of any instrument relating to any land held for the purposes of any voluntary school which—

- (a) confers on any person an option to acquire an interest in that land; or
- (b) provides (in whatever terms) for the determination or forfeiture of any such interest,

in the event of the school's ceasing to be a voluntary school shall, if the school becomes a grant#maintained integrated school, have effect as if the event referred to were the school's ceasing to be a school which is either a grant#maintained integrated school or a voluntary school.

### **Interpretation (grant#maintained integrated schools)**

**87.**—(1) In this Chapter—

- (a) references to the proposed date of implementation are references—
  - (i) in relation to any school in respect of which a proposal for acquisition of grant#maintained integrated status is required to be submitted under Article 71(1), to the date specified in accordance with Article 70(4)(b) in the information given for the purposes of the originating ballot to persons eligible to vote in that ballot (within the meaning of Article 70); and
  - (ii) in relation to any school in respect of which<sup>F66</sup> a proposal has been submitted under Article 71(1) or (2)], to the date specified in the proposal as the proposed date of implementation;
- (b) references, in relation to any school in respect of which such a proposal has been approved, to the proposal are references to the proposal as approved.

(2) In relation to any proposal for acquisition of grant#maintained integrated status required to be submitted under Article 71(1) in respect of any school, the reference in paragraph (1)(a) to the originating ballot is a reference—

- (a) where paragraph (1) of that Article applies, to the ballot by reference to which it applies; and
- (b) where the proposal is required to be published by virtue of a requirement imposed by the Department under paragraph (5) or (11) of that Article, to the last ballot held in accordance with Article 70 in relation to the school before that requirement was imposed.

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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)

(3) In this Part—

“incorporation date” means, in relation to a grant#maintained integrated school, the date on which the Board of Governors of the school is incorporated under Article 72;

“relevant board” means—

- (a) in relation to a controlled school, the board responsible for the management of the school;
- (b) in relation to a maintained school, the board by which the school is maintained;
- (c) in relation to any other voluntary school or an independent school, the board for the area in which the school is situated;
- (d) in relation to a proposal to establish a new grant#maintained integrated school, the board for the area in which the school is proposed to be.

F66 1996 NI 1

### CHAPTER III

#### CONTROLLED INTEGRATED SCHOOLS

##### *Management of controlled integrated schools*

##### **Management of controlled integrated schools**

**88.** The scheme of management for a controlled integrated school shall require the Board of Governors to use its best endeavours, in exercising its functions under the Education Orders, to ensure that the management, control and ethos of the school are such as are likely to attract to the school reasonable numbers of both Protestant and Roman Catholic pupils.

##### **Constitution of Board of Governors for controlled integrated schools**

**89.—(1)** In Schedule 4 to the principal Order for paragraphs 4 and 5 there shall be substituted the following paragraphs—

*“Controlled grammar schools (other than controlled integrated grammar schools) and controlled nursery and special schools*

**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 or a controlled special school and, subject to paragraph 6, of those members—

- (a) three#eighths shall be chosen by the board responsible for the management of the school;
- (b) one#quarter shall be nominated by the Head of the Department;
- (c) one#quarter shall be elected by parents of pupils attending 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.



### *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—

- (a) two#sevenths shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
- (b) two#sevenths shall be chosen by the board responsible for the management of the school;
- (c) one#seventh shall be nominated by the transferors and superseded managers of controlled schools (other than controlled integrated schools) in the area of the board responsible for the management of the school;
- (d) one#seventh shall be nominated by the nominating trustees of Catholic maintained schools in the area of the board responsible for the management of the school;
- (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 pupils attending the school from amongst the parents of such pupils;
- (b) two#sevenths shall be chosen by the board responsible for the management of the school;
- (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 a board in appointing persons to a Board of Governors under sub#paragraph (1)(b) or (3)(b) to choose for appointment persons appearing to the board 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.”.

(2) In paragraph 6 of that Schedule—

(a) for sub#paragraphs (1) to (3) there shall be substituted the following sub#paragraphs—

“(1) Where the board 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 the board's intention to appoint such persons; and
- (b) requesting the nominating authorities to make nominations to the board within a period of 21 days from the date on which the notice is served;

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and where the nominating authorities fail to make any nomination requested by such a notice within that period the board may, subject to sub#paragraph (2), appoint such persons as it considers to be suitable for appointment.

(2) It shall be the duty of a board 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 the board 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.”.

- (b) in sub#paragraph (4) for the words “and 5(a) and (e)” there shall be substituted “ , 5(1)(a) and (e) and 5(3)(a) and (d) ”.

(3) In paragraph 7 of that Schedule at the end there shall be added the following definition—  
 ““ 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.”.

#### *Procedure for acquisition of controlled integrated status*

#### **Schools eligible for controlled integrated status**

**90.**—(1) Subject to paragraphs (2) to (4), any controlled or voluntary school is for the purposes of this Chapter eligible for controlled integrated status.

(2) The following are not eligible for controlled integrated status, namely—  
*Sub-para. (a) rep. by 1998 NI 13*

- (b) a special school;

*Sub-para. (c) rep. by 1993 NI 12*

- [<sup>F67</sup>(d) a school established in a hospital.]

(3) A controlled or voluntary school is not eligible for controlled integrated status if a proposal to discontinue the school has been approved by the Department under Article 14(7) of the principal Order.

(4) A voluntary school is not eligible for controlled integrated status if notice of the trustees' intention to discontinue the school has been given under Article 16(1) of the principal Order and has not been withdrawn.

**F67** 1993 NI 12

#### **Initiation of procedure for acquisition of controlled integrated status**

**91.** Articles 69 and 70 shall apply for the purposes of the acquisition by a school eligible for controlled integrated status of that status as they apply for the purposes of the acquisition by a school eligible for grant#maintained integrated status of that status; and, accordingly, in those Articles as applied by this Article—

- (a) references to grant#maintained integrated status shall be read as references to controlled integrated status;

- (b) references to provisions of Article 69 or 70 shall be read as references to those provisions as so applied;
- (c) references to Article 71(1) shall be read as references to Article 92(1).

### **Proposals for acquisition of controlled integrated status**

**92.**—(1) Where in the case of any controlled or voluntary school which is eligible for controlled integrated status the result of a ballot held in accordance with Article 70 (as applied by Article 91) shows a simple majority of votes cast in the ballot by persons eligible to vote in the ballot (within the meaning of that Article (as so applied)) in favour of seeking controlled integrated status for the school, it shall be the duty of the relevant board to submit a proposal for the acquisition of controlled integrated status for the school to the Department together with its views thereon.

(2) Where a board proposes to establish a new controlled integrated school, it shall submit the proposal to the Department.

(3) A proposal under paragraph (1) or (2) shall be in such form and contain such particulars (including the proposed date of implementation) as may be required by the Department and a proposal under paragraph (1) shall be submitted to the Department within such time as may be so required.

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

- (a) forthwith publish by advertisement in one or more newspapers circulating in the area affected by the proposal a notice stating—
  - (i) such particulars of the nature of the proposal as may be required by the Department;
  - (ii) that the proposal has been submitted to the Department;
  - (iii) that a copy of the proposal can be inspected at a specified place;
  - (iv) 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;
- (b) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as the board may determine.

(5) Subject to paragraphs (6) and (7), the Department, after considering any objections to a proposal made to it within the time specified in the notice under paragraph (4)(a)(iv), may, after making such modification, if any, in the proposal as, after consultation with the board making the proposal, it considers necessary or expedient, approve the proposal and inform that board accordingly.

(6) The Department shall not approve a proposal under this Article in relation to a school unless it appears to the Department that, if the school were to become, or be established as, a controlled integrated school, the school would be likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

(7) The Department shall not approve a proposal under paragraph (1) in relation to a school unless the school was eligible for controlled integrated status on the date on which the proposal was submitted under that paragraph.

(8) Where the Department rejects any proposal under paragraph (1) in relation to a school, it may require the board to submit a further proposal under that paragraph within such period as it may direct.

(9) Where a proposal under paragraph (1) or (2) in respect of any school is approved by the Department—

- (a) the school shall become, or be established as, a controlled integrated school on the proposed date of implementation; and

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- (b) the relevant board shall make provision by means of a Board of Governors appointed by the board for the management of the school as a controlled integrated school on and from that date.

(10) The provisions of the Education Orders shall, subject to any express provision to the contrary, apply to a controlled integrated school in like manner as they apply to a controlled school which is not a controlled integrated school.

### **Effect of pending procedure for acquisition of controlled integrated status**

**93.**—(1) This Article applies to a controlled or voluntary school during any period when the procedure under this Chapter for acquisition of controlled integrated status is pending in relation to the school.

(2) For the purposes of this Article that procedure is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).

(3) For those purposes that procedure is to be regarded as initiated in relation to any school on any occasion<sup>F68</sup> on receipt by the relevant board, in the case of a controlled school, or the trustees of the school, in the case of a voluntary school, of notice under Article 69(4)(b)].

<sup>F68</sup>(4) For those purposes, that procedure, as initiated on any occasion, is to be regarded as terminated if—

- (i) the result of the ballot to which the notice under Article 69(4)(b) relates] does not show a majority in favour of seeking controlled integrated status for the school;
- (ii) a proposal for acquisition of such status for the school which is required to be submitted under Article 92 by reference to the result of that ballot, or any proposal required in substitution for that proposal, is rejected by the Department or withdrawn; or
- (iii) the school becomes a controlled integrated school.

(5) Where Article 70(8) applies in the case of any such ballot, the references in<sup>F68</sup> paragraph (4)] to the result of that ballot shall be read as references to the result of the second ballot required by that paragraph.

(6) The reference in paragraph (4) to a proposal required in substitution for any proposal for acquisition of controlled integrated status for any school which is required to be submitted under Article 92 by reference to the result of a ballot held in accordance with Article 70 (“the original proposal”) is a reference to any proposal required to be submitted under paragraph (8) of Article 92 on the rejection of—

- (a) the original proposal; or
- (b) any further proposal required to be submitted under that paragraph with respect to the school without a further ballot;

and a proposal under that Article with respect to a school shall not be treated for the purposes of paragraph (4) as rejected in any case where the Department imposes a requirement under paragraph (8) of that Article.

(7) Except with the consent of the Department, the trustees of a voluntary school to which this Article for the time being applies shall not—

- (a) dispose of any property used wholly or partly for the purposes of the school; or
- (b) enter into a contract to dispose of any such property.

(8) Paragraph (7) does not apply in relation to a disposal which is made in pursuance of a contract entered into, or an option granted, before the procedure mentioned in paragraph (1) was initiated in relation to the school.

(9) A disposal or contract shall not be invalid or void by reason only that it has been made or entered into in contravention of this Article and a person acquiring property, or entering into a contract to acquire property, from the trustees of a voluntary school shall not be concerned to enquire whether any consent required by this Article has been given.

(10) During any period when this Article applies to a school—

- (a) no resolution shall be passed by the Board of Governors under Article 69(1)(a); and
- (b) no request shall be made to the Board of Governors under Article 69(1)(b).

(11) In this Article (except paragraph (10)) references to Articles 69 and 70 are references to those Articles as applied by Article 91.

F68 1996 NI 1

*Proposals for alteration, etc. of schools eligible for controlled integrated status*

**Proposals for alteration, etc. of schools eligible for controlled integrated status**

**94.**—(1) Before formulating in respect of any controlled school which is eligible for controlled integrated status any proposal under Article 14(1)(c), (d) or (e) of the principal Order, a board shall consult the Board of Governors of the school.

(2) Where a proposal for acquisition of controlled integrated status is approved in relation to a school, no proposal shall be submitted under Article 14 of the principal Order in respect of that school between the date on which the proposal for acquisition of controlled integrated status is approved and the proposed date of implementation of that proposal.

(3) Paragraph (4) applies in any case where either—

- (a) after a proposal for acquisition of controlled integrated status has been first submitted to the Department under Article 92 in respect of any school which is eligible for controlled integrated status but before that proposal is withdrawn or determined a proposal in respect of the school is submitted to the Department under Article 14 of the principal Order; or
- (b) after a proposal in respect of any such school has been submitted to the Department under Article 14 of the principal Order but before that proposal is withdrawn or determined a proposal for acquisition of controlled integrated status for the school is first submitted to the Department under Article 92.

(4) In any case to which this paragraph applies, the Department shall consider both proposals together but shall not determine the proposal under Article 14 until it has made its determination with respect to the proposal for acquisition of controlled integrated status.

(5) Where—

- (a) a proposal under Article 14(1)(d) or (e), (2)(d) or (e) or (3)(c) of the principal Order with respect to any school has been approved under Article 14(7) of that Order; and
- (b) the school becomes a controlled integrated school before that proposal has been implemented,

that proposal shall be treated as if it had been published and approved under Article 14 after the school became a controlled integrated school.

*Status: Point in time view as at 01/04/2009.*

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### *Transfer of property and sta#*

#### **Transfer of property of voluntary school acquiring controlled integrated status**

**95.**—(1) Subject to the following provisions of this Article, on the proposed date of implementation in relation to a controlled integrated school which immediately before that date was a voluntary school—

- (a) all land or other property which, immediately before that date was property held by the trustees of the school for the purposes of the school;
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by those trustees for those purposes;
- (c) any property, rights and liabilities of the former Board of Governors of the school,

shall be transferred to, and by virtue of this Order vest in, the relevant board.

(2) Paragraph (1) shall not apply to rights and liabilities under any contract of employment.

(3) Any land or other property transferred to a board under this Article which immediately before the proposed date of implementation was held on trust shall vest in that board as trustee on the trusts applicable immediately before that date under any trust deed regulating the use of the land or other property for the purposes of the school.

(4) The Department may by regulations make provision for the payment of compensation by the Department to the trustees of a voluntary school in respect of land or other property held by them immediately before the proposed date of implementation and transferred under this Article and such regulations may provide—

- (a) for the amount of compensation to be such as may be agreed between the Department and the trustees or, in default of agreement, such as may be determined by the Lands Tribunal;
- (b) for the amount of compensation to be reduced where grants have been paid by the Department in respect of land or other property so transferred and for the calculation of any such reduction.

(5) On the proposed date of implementation in relation to a controlled integrated school which immediately before that date was a voluntary school, the school shall cease to be a voluntary school for the purposes of the Education Orders and the trustees and former Board of Governors of the school shall be absolutely freed and discharged from all responsibility in connection with the school whether under any deed of trust or otherwise.

(6) For the purposes of this Article any interest in a dwelling house or other residence which, immediately before the proposed date of implementation in relation to a controlled integrated school, is used or held for occupation by a person employed to work at the school shall be treated as an interest used or held for the purposes of the school.

(7) In this Article “the former Board of Governors” means, in relation to a controlled integrated school, the Board of Governors of the school immediately before the proposed date of implementation in relation to the school.

#### **Transfer of sta#**

**96.**—(1) Subject to paragraph (2), this Article applies to any person who immediately before the proposed date of implementation in relation to a controlled integrated school which is then a voluntary school,—

- (a) is employed by the Board of Governors of the school; or
- (b) is employed by the Council for Catholic Maintained Schools to work solely at the school.

(2) This Article does not apply to—

- (a) any person employed as mentioned in paragraph (1)(a) or (b) whose contract of employment terminates on the day immediately preceding the proposed date of implementation;
  - (b) any person employed as mentioned in paragraph (1)(b) who before that date has been—
    - (i) appointed or assigned by the Council for Catholic Maintained Schools to work solely at another school as from that date; or
    - (ii) withdrawn from work at the school with effect as from that date.
- (3) A person who before the proposed date of implementation has been appointed or assigned by the Council for Catholic Maintained Schools to work at the school as from that date shall be treated for the purposes of this Article as if he had been employed by the Council immediately before that date to do such work at the school as he would have been required to do on or after that date under his contract of employment with the Council.
- (4) References below in this Article to the former employer are references—
- (a) in relation to a person to whom this Article applies by virtue of paragraph (1)(a), to the Board of Governors of the school immediately before the proposed date of implementation; and
  - (b) in relation to a person to whom this Article applies by virtue of paragraph (1)(b), to the Council for Catholic Maintained Schools.
- (5) The contract of employment between a person to whom this Article applies and the former employer shall have effect from the proposed date of implementation as if originally made between him and the relevant board.
- (6) Without prejudice to paragraph (5)—
- (a) all the former employer's rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the relevant board on the proposed date of implementation; and
  - (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to that board.
- (7) Paragraphs (5) and (6) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.

#### *Significant changes to controlled integrated schools*

#### **Significant changes to controlled integrated schools**

**97.** The Department shall not approve any proposal made under Article 14(1)(d) or (e) or (3)(c) of the principal Order in relation to a controlled integrated school if in the opinion of the Department the implementation of that proposal would render the school less likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

#### *Miscellaneous and supplementary*

#### **Variation of instrument of government relating to controlled integrated school**

**98.** Article 86 shall apply to a controlled integrated school as if for the words “grant#maintained integrated” wherever they occur there were substituted the words “ controlled integrated ”.

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### Interpretation (controlled integrated schools)

99.—(1) In this Chapter and in any other provision of this Part as applied by Article 91 or 98—

- (a) references to the proposed date of implementation are references—
  - (i) in relation to any school in respect of which a proposal for acquisition of controlled integrated status is required to be submitted under Article 92(1), to the date specified in accordance with Article 70(4)(b) (as applied by Article 91) in the information given for the purposes of the originating ballot to persons eligible to vote in that ballot (within the meaning of Article 70 (as so applied)); and
  - (ii) in relation to any school in respect of which<sup>F69</sup> a proposal has been submitted under Article 92(1) or (2)], to the date specified in the proposal as the proposed date of implementation;
- (b) references, in relation to any school in respect of which such a proposal has been approved, to the proposal are references to the proposal as approved;
- (c) “relevant board” means—
  - (i) in relation to a controlled school, the board responsible for the management of the school;
  - (ii) in relation to a maintained school, the board by which the school is maintained;
  - (iii) in relation to a voluntary school, other than a maintained school, the board for the area in which the school is situated;
  - (iv) in relation to a proposal to establish a new controlled integrated school, the board for the area in which the school is proposed to be situated.

(2) In relation to any proposal for acquisition of controlled integrated status required to be submitted under Article 92(1) in respect of any school, the reference in paragraph (1)(a) to the originating ballot is a reference—

- (a) where paragraph (1) of that Article applies, to the ballot by reference to which it applies; and
- (b) where the proposal is required to be published by virtue of a requirement imposed by the Department under paragraph (8) of that Article, to the last ballot held in accordance with Article 70 (as applied by Article 91) in relation to the school before that requirement was imposed.

**F69** 1996 NI 1

*Part VII (Arts. 100#120) rep. by 1997 NI 15*

## PART VIII

### SCHOOLS—GENERAL PROVISIONS

#### CHAPTER I

#### MANAGEMENT OF GRANT#AIDED SCHOOLS

#### Appointment of parent governors

121. In Article 13 of the principal Order after paragraph (3) there shall be inserted—

“(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.

(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) to appoint a person who is the parent of a registered pupil at the school.

(3C) In paragraph (3A) “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 pupils attending the school from amongst the parents of such pupils.

(3D) A person appointed under paragraph (3A) 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 pupils attending the school.

(3E) In paragraphs (3A) and (3B) “voting members” has the meaning assigned to it by Article 122(3) of the 1989 Order.” .

### **Co#option of persons to Board of Governors of grant#aided school**

**122.**—(1) The voting members of the Board of Governors of a grant#aided school may co#opt not more than three persons to be members of the Board of Governors of the school.

(2) It shall be the duty of the voting members in co#opting any person to be a member of the Board of Governors to co#opt a person who appears to them to be a member of the local business community if it appears to the voting members—

- (a) that no member of the Board of Governors is a member of the local business community; or
- (b) that it is desirable to increase the number of members of the Board of Governors who are members of that community.

(3) In this Article “voting members”

- (a) in relation to the Board of Governors of a grant#maintained integrated school, has the same meaning as in Schedule 5;
- (b) in relation to the Board of Governors of a school to which Schedule 7 to the principal Order applies, means the members of the Board of Governors referred to in paragraph 2(1) (a), (b) and (c) of that Schedule;
- (c) in relation to the Board of Governors of any other grant#aided school, has the meaning assigned to it for the purposes of whichever of Schedules 4, 5<sup>F70</sup> or 6] to the principal Order applies in relation to the membership of that Board of Governors.

**F70** 1996 NI 1

### **Schemes of management**

**123.** After Article 9 of the principal Order and after the cross#heading “School management” there shall be inserted the following Articles—

#### **“Schemes of management**

**9A.**—(1) For every grant#aided school (other than a technical secondary school) there shall be a scheme (to be known as a “scheme of management”) providing for—

*Status: Point in time view as at 01/04/2009.*

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- (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 specified 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.
- (7) In its application to a voluntary school referred to in Article 11(8), this Article shall have effect with the omission of paragraphs (1)(a) and (2) and the substitution for the references in paragraphs (1)(b) and (3) to the Board of Governors of references to the person approved in relation to that school by the Department under the said Article 11(8).

### **Preparation of schemes of management**

**9B.**—(1) It shall be the duty of a board to prepare a scheme or schemes of management for controlled schools under the management of the board; but before preparing a scheme of management applying to any school the board shall consult the Board of Governors of that school.

(2) It shall be the duty of a board, 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 the board by which the school is maintained.

(4) It shall be the duty—

- (a) in the case of a voluntary school referred to in Article 11(8), of the person approved in relation to that school by the Department under the said Article 11(8),
  - (b) in the case of any other voluntary school (not being a maintained school), of the Board of Governors of the 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.

### **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;

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- (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 the board or boards by which any such school is maintained.

(7) The Council for Catholic Maintained Schools shall provide each board with a copy of the scheme or schemes of management approved under this Article and applying to the Catholic maintained schools maintained by that board.

**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.”.

*Art. 124 rep. by 1998 NI 13*

**Annual report of Board of Governors**

**125.**—(1) The scheme of management for every grant#aided school shall provide for it to be the duty of the Board of Governors to prepare, once in every school year, a report containing—

- (a) a summary of the steps taken by the Board of Governors in the discharge of its functions during the period since its last report; and
  - (b) such other information as the scheme of management may require.
- (2) The scheme of management for every such school shall, in particular, require that report—
- (a) to be as brief as is reasonably consistent with the requirements as to its contents;
  - (b) <sup>F71</sup>.....
  - (c) to give the name of each member of the Board of Governors and indicate into which of the following categories he falls, namely—
    - (i) members nominated by transferors and superseded managers;
    - (ii) members elected by parents;
    - (iii) members elected by assistant teachers;
    - (iv) members chosen, nominated or appointed by a board;
    - (v) members nominated by the Boards of Governors of contributory schools;
    - (vi) members nominated or appointed by the Head of the Department;
    - (vii) members nominated by trustees or nominating trustees;
    - (viii) foundation members;
    - (ix) co#opted members;
    - (x) the principal;
    - (xi) members not falling under any preceding category;

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- (d) to give, in relation to each member (other than the principal) the date on which his term of office comes to an end;
- (e) to name the chairman of the Board of Governors and its secretary;
- (f) to give such information as is available to the Board of Governors about arrangements for the next election of parents to the Board of Governors;
- (g) to contain a financial statement—
  - (i) reproducing or summarising any financial statement of which a copy has been furnished to the Board of Governors by the board under Article 54 or 57 or by the Department under Article 61 or 78 since the last report was prepared;
  - (ii) indicating, in general terms, how any grants made to the Board of Governors under the Education Orders in the period covered by the report were used and how any sum made available to the Board of Governors by the board in respect of the school's budget share (within the meaning of Part V) or in accordance with Article 51 in that period was used;
  - (iii) giving details of the application of any gifts or bequests made to the school in that period;

[<sup>F72</sup>(ga) to describe in general terms—

- (i) the arrangements made for the security of the pupils and staff at the school and the school premises; and
- (ii) any changes to those arrangements since the last report was prepared;]
- (h) to describe what steps have been taken by the Board of Governors to develop or strengthen the school's links with the community and, in particular, to promote the attainment of the objectives of the educational theme called Education for Mutual Understanding; and
- (i) to give such information as is required to be made available in accordance with regulations under [<sup>F73</sup>Article 24(2)(a) of the Education (Northern Ireland) Order 2006] .

(3) The scheme of management for every such school shall enable the Board of Governors to produce its report in such language or languages (in addition to English) as it considers appropriate.

(4) The scheme of management for every such school shall provide for it to be the duty of the Board of Governors to take such steps as are reasonably practicable to secure that—

- (a) the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of its report;
- (b) copies of that report are available for inspection (at all reasonable times and free of charge) at the school; and
- (c) <sup>F74</sup> .....

*Para. (5) rep. by 1993 NI 12*

*Para. (6) rep. by 1997 NI 15*

[<sup>F75</sup>(7) This Article does not apply to a school established in a hospital.]

**F71** Art. 125(2)(b) repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44, Sch. 2 para. 6, **Sch. 3 Pt. 1**

**F72** 1998 NI 13

**F73** Words in art. 125(2)(i) 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. 7**

**F74** Art. 125(4)(c) repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44, Sch. 2 para. 6, **Sch. 3 Pt. 1**

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**F75** 1993 NI 12

## Annual parents' meeting

**126.** <sup>F76</sup> .....

**F76** Art. 126 repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 41, 44(2), **Sch. 3 Pt. 1**

## CHAPTER II

### CHARGES IN GRANT#AIDED SCHOOLS

#### Application of Articles 128 to 131

**127.**—(1) Subject to paragraphs (2) to (5)<sup>[F77]</sup> and Article 137(7)], Articles 128 to 131 apply to all grant#aided schools.

<sup>[F78]</sup>(2) Articles 128 to 131 do not apply to a voluntary grammar school if no agreement with the Department is, or has at any time on or after 1st April 1992 been, in force in relation to the school under paragraph 1(1) of Schedule 6 to the 1986 Order.

(3) The application of those Articles to certain other voluntary grammar schools is subject to Articles 132 and 132A.]

(4) Those Articles<sup>[F78]</sup> do not apply] to a grammar school in relation to an excepted pupil, that is to say—

- (a) any pupil who is not resident in Northern Ireland;
- (b) any pupil whose parents are<sup>[F78]</sup> neither resident in Northern Ireland nor] nationals of a member State;
- (c) in the case of a grammar school having a preparatory department, any pupil in that department of the school;
- (d) any pupil who—
  - (i) was admitted to the grammar school or, in the case of a grammar school having a preparatory department, admitted to the secondary department of the grammar school before the appointed day; and

<sup>[F78]</sup>(ii) on 31st March 1992 was a specified pupil, as defined by regulation 4(c) of the Grammar Schools (Fees) Regulations (Northern Ireland) 1990 (as in operation on that date).]

<sup>[F79]</sup>(4A) Those Articles do not apply to a special school in relation to a pupil admitted to the school in accordance with arrangements under Article 22 of the Education and Libraries (Northern Ireland) Order 2003.]

(5) The board for the area in which a grammar school is situated may, in accordance with arrangements approved by the Department, direct that a pupil registered at the school who is an excepted pupil solely by reason of falling within paragraph (4)(d) shall cease to be an excepted pupil; and, accordingly, Articles 128 to 131 shall apply in relation to any pupil in respect of whom such a direction is given.

(6) In paragraph (4)(b) “national”, in relation to a member State, means the same as in the Community Treaties, but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.

F77 1993 NI 12  
F78 1993 NI 12  
F79 2003 NI 12

### Prohibition of charges, etc., in certain grant#aided schools

128.—(1) No charge shall be made in respect of admission to any grant#aided school to which this Article applies.

(2) Subject to paragraph (3) and Article 129, no charge shall be made in respect of the education provided for <sup>F80</sup> . . . pupils at any such school during school hours.

(3) Paragraph (2) shall not apply in relation to individual tuition in playing any musical instrument.

(4) No charge shall be made in respect of education provided for a <sup>F81</sup> . . . pupil at any grant#aided school to which this Article applies where the education is education to which paragraph (2) does not apply if it is—

- (a) required as part of any [<sup>F82</sup>specification] for [<sup>F83</sup> a] public examination which is a [<sup>F82</sup>specification] for which the pupil is being prepared at the school; or
- (b) provided in pursuance of any of the duties imposed by [<sup>F84</sup>Article 13 (1)(a) or (b) of the Education (Northern Ireland) Order 2006] .

(5) No charge shall be made in respect of the entry of a <sup>F85</sup> . . . pupil at any grant#aided school to which this Article applies for any <sup>F86</sup> . . . public examination in any [<sup>F87</sup>specification] for that examination for which the pupil has been prepared at the school.

(6) Neither the parent of any such pupil nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—

- (a) education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or
- (b) any [<sup>F88</sup>specification] for [<sup>F83</sup> a] public examination which is a [<sup>F88</sup>specification] for which the pupil has been prepared at the school.

(7) No charge shall be made in respect of transport provided for a <sup>F89</sup> . . . pupil at any such school where the transport is either—

- (a) incidental to education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or
- (b) provided for the purpose of enabling him to meet any examination requirement for any [<sup>F90</sup>specification] for [<sup>F83</sup> a] public examination which is a [<sup>F90</sup>specification] for which he has been prepared at the school.

(8) For the purposes of paragraph (7)(a) transport is incidental to education provided for <sup>F91</sup> . . . pupils at any such school if it is provided for the purpose of carrying such pupils—

- (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises; or
- (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the Board of Governors of the school or the board, from or to the school premises or any other such place.

(9) Nothing in this Article shall be read as prohibiting the making of a charge in respect of board and lodging provided for a <sup>F92</sup> . . . pupil at any such school on a residential trip.

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(10) In this Chapter “residential trip” means any trip—

- (a) which is arranged for <sup>F93</sup> . . . pupils at any grant#aided school to which this Article applies by or on behalf of the managers of the school; and
- (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.

(11) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a [<sup>F94</sup>specification] for any<sup>F86</sup> . . . public examination if any part of the education provided with a view to preparing him for that examination in that [<sup>F94</sup>specification] has been provided for him at that school.

- F80** Word in art. 128(2) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F81** Word in art. 128(4) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F82** Word in art. 128(4) 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. 8(a)**
- F83** 1993 NI 12
- F84** Words in art. 128(4) 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. 8(b)**
- F85** Word in art. 128(5) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F86** 1993 NI 12
- F87** Word in art. 128(5) 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. 8(a)**
- F88** Word in art. 128(6) 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. 8(a)**
- F89** Word in art. 128(7) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F90** Word in art. 128(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. 8(a)**
- F91** Word in art. 128(8) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F92** Word in art. 128(9) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F93** Word in art. 128(10) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F94** Word in art. 128(11) 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. 8(a)**

### Provision for cases where education is provided partly during and partly outside school hours

129.—(1) Where a period allowed for any educational activity at a school falls partly during school hours and partly outside school hours—

- (a) if fifty per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
- (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.



(2) In this Article “school travelling time” means time spent on travel during school hours; and for the purposes of paragraph (1)(a) such time is connected school travelling time in relation to any educational activity if it is spent by the pupils taking part in the activity in getting to or from the place where the activity takes place.

(3) Where any education provided at a school is provided on a residential trip—

- (a) if the number of school sessions taken up by the trip is equal to or greater than fifty per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
- (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.

(4) In this Article a “half day” means any period of twelve hours ending with noon or midnight on any day.

(5) Where fifty per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated for the purposes of paragraph (3) as spent on the trip.

(6) For the purposes of that paragraph, a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip on which education is provided for registered pupils at the school if the time spent on the trip occupies fifty per cent. or more of the time allowed for that session at the school.

### Permitted charges

130.—(1) Subject to paragraph (2), a charge may be made in respect of—

- (a) education or transport provided for a <sup>F95</sup> . . . pupil at any grant#aided school to which this Article applies [<sup>F96</sup> other than—
  - (i) education or transport in respect of which by virtue of Article 128 no charge may be made; or
  - (ii) transport provided by a board under Article 52 of the principal Order.]
- (b) the entry of any such pupil for a public examination in any [<sup>F97</sup> specification] for that examination otherwise than in circumstances in which by virtue of Article 128(5) no charge may be made; and
- (c) board and lodging provided for any such pupil on a residential trip.

(2) A charge may not be made—

- (a) by virtue of paragraph (1)(a) in respect of the provision for a pupil of education or transport; or
- (b) by virtue of paragraph (1)(b) in respect of the entry of a pupil for an examination in any [<sup>F98</sup> specification] for that examination,

unless the education or transport is provided or the pupil is entered for the examination in that [<sup>F98</sup> specification] by agreement with his parent; and any education, transport or examination entry in respect of which a charge may be made by virtue of either of those provisions is referred to below in this Article as an “optional extra”.

(3) The following provisions of this Article apply in relation to any charge permitted under this Article and any such charge is referred to in those provisions as a regulated charge.

(4) The amount of any regulated charge shall be payable by the parent of the pupil concerned.

(5) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.

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(6) Without prejudice to the generality of paragraph (5), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—

- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra;
- (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra; or
- (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.

(7) Subject to paragraph (8), the cost of the provision of an optional extra shall not be taken as including any costs attributable to the provision of teaching staff other than staff engaged as mentioned in paragraph (6)(c).

(8) Where the optional extra in question consists of tuition in playing any musical instrument the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.

(9) Where charging is permitted under this Article and the charge would be a regulated charge, the question of whether any charge in respect of the optional extra or the board and lodging should be made, and the amount of any charge to be made, shall be determined—

- (a) in a case where the cost of the provision of the optional extra or board and lodging is met by, or from funds at the disposal of, the Board of Governors, by the Board of Governors;
- (b) in any other case, by the board.

(10) The whole or any part of the amount of any charge the board determines under paragraph (9) to make—

- (a) shall, if the Board of Governors so determines, be met by, or from funds at the disposal of, the Board of Governors; and
- (b) shall not, to the extent that it is so met, be payable by the parent of the pupil concerned.

**F95** Word in art. 130(1)(a) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 31, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F96** 1997 NI 5

**F97** Word in art. 130(1)(b) 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. 9**

**F98** Word in art. 130(2) 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. 9**

## Charges and remissions policies

**131.**—(1) Every Board of Governors of a grant-aided school to which this Article applies and every board shall determine and keep under review a policy with respect to the provision of, and the classes or descriptions of case in which it proposes to make charges for, any optional extra or board and lodging in respect of which charges are permitted by Article 130.

(2) No such Board of Governors or board shall make such a charge unless it has both—

- (a) determined a policy under paragraph (1) with respect to the making of such charges (its “charging policy”); and
- (b) determined a policy (its “remissions policy”)—
  - (i) setting out any circumstances in which it proposes to remit (in whole or in part) any charge which would otherwise be payable to it in accordance with its charging policy; and

- (ii) in the case of such a policy determined by the Board of Governors, setting out also any circumstances in which the Board of Governors proposes to meet (in whole or in part) any charge payable to the board in accordance with the board's charging policy for any optional extra or board and lodging provided for a registered pupil at the school.
- (3) Any remissions policy determined by the Board of Governors of a school or by a board shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which by virtue of Article 128 no charge may be made; and
- (b) his parents are in receipt of income support <sup>F99</sup>, any element of child tax credit other than the family element, working tax credit<sup>F100</sup>, an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related employment and support allowance (payable under Part 1 of the Welfare Reform Act (Northern Ireland) 2007)<sup>F101</sup>. . . in respect of any period wholly or partly comprised in the time spent on the trip.
- (4) Any such Board of Governors or board shall keep under review any remissions policy determined by it under this Article.
- (5) In this Article “optional extra” has the same meaning as in Article 130.

**F99** 2002 c. 21

**F100** Words in art. 131(3)(b) substituted (27.10.2008) by [Welfare Reform Act \(Northern Ireland\) 2007](#) (c. 2), ss. 28(1), 60(1), [Sch. 3 para.1](#); S.R. 2008/276, [art. 2\(2\)\(d\)](#), Sch. Pt. 2

**F101** 2002 c. 21

**[<sup>F102</sup>Capital charges in voluntary grammar schools to which Articles 128 to 131 apply where agreement under paragraph 1(1)(b) of Schedule 6 to the principal Order is, or has been, in force**

**132.**—(1) This Article applies to a voluntary grammar school to which Articles 128 to 131 apply if—

- (a) an agreement with the Department under paragraph 1(1)(b) of Schedule 6 to the principal Order is in force in relation to the school; or
- (b) such an agreement was in force in relation to the school at any time on or after 1 April 1992.

(2) Notwithstanding anything in Articles 128 to 131, the Board of Governors of such a school may make a charge in respect of any pupil registered at the school for the purpose of meeting expenditure incurred or to be incurred—

- (a) for the provision or alteration of the premises of the school;
- (b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

(3) A charge under paragraph (2) shall, in the case of pupils of a prescribed description, not exceed such amount as may be prescribed.

(4) References in paragraph (2) to the premises of the school do not include premises used wholly or mainly for boarding purposes.]

**F102** 1993 NI 12

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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)

**[<sup>F103</sup>Capital charges in voluntary grammar schools to which Articles 128 to 131 apply where agreement is in force under paragraph 1(1)(a) of Schedule 6 to the principal Order**

**132A.**—(1) This Article applies to a voluntary grammar school to which Articles 128 to 131 apply if—

- (a) an agreement with the Department under paragraph 1(1)(a) of Schedule 6 to the 1986 Order is in force in relation to the school; and
- (b) immediately before the coming into force of that agreement, an agreement with the Department was in force under paragraph 1(1)(b) of Schedule 6 to the 1986 Order.

(2) Notwithstanding anything in Articles 128 to 131, the Board of Governors of such a school may, for such period after the date on which the agreement mentioned in paragraph (1)(a) comes into force as the Department may direct, make a charge in respect of any pupil registered at the school for the purpose of meeting expenditure incurred—

- (a) for the provision or alteration of the premises of the school;
- (b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

(3) Paragraphs (3) and (4) of Article 132 shall apply for the purposes of paragraph (2) of this Article as they apply for the purposes of paragraph (2) of that Article.]

**F103** 1993 NI 12

**Charges in voluntary grammar schools to which Articles 128 to 131 do not apply**

**133.**—(1) This Article applies to a voluntary grammar school to which, by virtue of Article 127(2), Articles 128 to 131 do not apply.

(2) The Board of Governors of such a school may, subject to regulations, make charges of such amounts as it may determine in respect of any pupil registered at the school for the purpose of meeting expenditure required to carry on the school.

(3) No charge shall be made in respect of the entry of a registered pupil at such a school for any<sup>F104</sup> . . . public examination in any [<sup>F105</sup>specification] for that examination for which the pupil has been prepared at the school.

(4) Paragraphs (2) and (3) do not apply in relation to excepted pupils.

(5) Without prejudice to the generality of paragraph (2), regulations under that paragraph may prescribe—

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

**F104** 1993 NI 12

**F105** Word in art. 133(3) 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. 10**

**Charges in respect of excepted pupils**

**134.**—(1) The Board of Governors of a grammar school in which an excepted pupil is registered may, subject to regulations, make charges of such amounts as it may determine in respect of that pupil.

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

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

### **Charges for board and lodging at boarding schools**

**135.**—(1) Subject to the following provisions of this Article where any registered pupil at any grant#aided school is provided at the school with board and lodging at the expense of a board or the Board of Governors of the school, charges shall be payable in respect of the board and lodging by the parent of the pupil concerned to that board or Board of Governors.

(2) Where a board is satisfied with respect to any pupil who is ordinarily resident in its area that education suitable to his age, ability, aptitude and any special educational needs he may have cannot be provided for him otherwise than by the provision of board and lodging at a particular grant#aided school, the board shall—

- (a) where the school is under its management, remit the whole of the charges payable under this Article; and
- (b) where the school is not under its management, pay to the board or Board of Governors to whom the charges are payable under this Article, the whole of those charges.

(3) Where a board is satisfied that payment of the full charges payable under this Article would involve financial hardship to the parent of a pupil who is ordinarily resident in its area, the board—

- (a) in the case of charges payable to the board, shall remit so much of those charges as falls in accordance with paragraph (4) to be so remitted; and
- (b) in the case of charges payable to another board or to the Board of Governors of a school, shall pay so much of those charges as falls in accordance with that paragraph to be so paid.

(4) In the case of any such charges, the amount that falls to be remitted or paid by a board by virtue of paragraph (3)(a) or (b) is—

- (a) such part of those charges as the board considers ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in that paragraph; or
- (b) if in its opinion such hardship cannot otherwise be avoided, the whole of those charges.

### **Obligation to enter pupils for approved public examinations**

**136.**—(1) Subject to the following provisions of this Article, the Board of Governors of every grant#aided school shall secure that each <sup>F106</sup>. . . pupil at the school is entered, at such time as it considers appropriate, for each <sup>F107</sup>. . . public examination for which he is being prepared at the school at the time in question in each [<sup>F108</sup>specification] for that examination for which he is being so prepared.

(2) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination, or for any examination in any [<sup>F108</sup>specification] for that examination, if <sup>F109</sup>. . . —

- (a) the Board of Governors considers that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that [<sup>F108</sup>specification] and the parent of the pupil agrees that he should not be so entered; or
- (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that [<sup>F108</sup>specification] .

**Status:** Point in time view as at 01/04/2009.

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[<sup>F110</sup>(c) the pupil is also being prepared for that examination or (as the case may be) for that examination in that specification at another school in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006 and those arrangements provide for the Board of Governors of that other school to comply with the duty under paragraph (1) in relation to the examination in question.]

(3) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination in any [<sup>F111</sup>specification] for that examination if the Board of Governors has secured that pupil's entry for another<sup>F107</sup> . . . public examination in a corresponding [<sup>F108</sup>specification] .

(4) For the purposes of paragraph (3), a [<sup>F108</sup>specification] for any such examination shall be regarded as corresponding to a [<sup>F108</sup>specification] for another such examination if the same course of study is provided at the school concerned in preparation for both [<sup>F112</sup>specifications] .

(5) As soon as practicable after determining whether or not to secure the entry of any pupil for [<sup>F113</sup> a] public examination in any [<sup>F108</sup>specification] for which he is being prepared at the school the Board of Governors of a grant#aided school shall notify the parent of the pupil in writing of its determination in relation to each such [<sup>F108</sup>specification].

**F106** Word in art. 136(1) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 32(a), **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F107** 1993 NI 12

**F108** Word in art. 136 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. 11(a)**

**F109** Word in art. 136(2) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 32(b), **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F110** Art. 136(2)(c) added (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44(1), **Sch. 2 para. 32(b)**; S.R. 2007/197, **art. 2(a)**

**F111** Word in art. 136 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. 11(a)**

**F112** Word in art. 136(4) 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. 11(b)**

**F113** 1993 NI 12

#### [<sup>F114</sup>Recovery of wasted examination fees

**136A.**—(1) Notwithstanding Article 128(5) or Article 133(3), where—

- (a) the Board of Governors of a grant-aided school has paid or is liable to pay a fee in respect of the entry of a<sup>F115</sup> . . . pupil at the school for a public examination in any [<sup>F116</sup>specification] for that examination; and
- (b) the pupil fails without good reason to meet any examination requirement for that [<sup>F116</sup>specification] ,

the Board of Governors may recover the amount of the fee from the pupil's parent.

(2) It shall be for the Board of Governors which has paid or is liable to pay the fee in question to determine for the purposes of this Article any question whether a pupil who has failed to meet an examination requirement had good reason for the failure.]

**F114** 1998 NI 13

**F115** Word in art. 136A(1) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 33, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F116** Word in art. 136A(1) 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. 12

### General and supplementary provisions relating to charges

**137.**—(1) Nothing in the provisions of this Chapter relating to charges shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the Board of Governors of any grant#aided school or any board for voluntary contributions for the benefit of the school or any school activities.

(2) Any request or invitation made by or on behalf of any such Board of Governors or board for contributions for the benefit of any school or school activities shall not be regarded for the purposes of paragraph (1) as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—

- (a) that there is no obligation to make any contribution; and
- (b) that <sup>F117</sup> . . . pupils at the school will not be treated di#erently according to whether or not their parents have made any contribution in response to the request or invitation.

(3) Nothing in Article 128(6) shall prevent the parent of a <sup>F118</sup> . . . pupil at a grant#aided school to which this Article applies from being required to pay for or supply any materials for use for the purposes of the production in the course of the provision of education for the pupil at the school of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.

(4) Nothing in this Chapter relating to charges with respect to a <sup>F119</sup> . . . pupil at a grant#aided school shall be read as relating to—

- (a) charges made by persons other than the Board of Governors or the board; or
- (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

[<sup>F120</sup>(4A) Nothing in the provisions of this Chapter relating to charges applies in relation to charges made by a board under Article 52 of the principal Order.]

(5) The Department may make regulations requiring, in relation to every grant#aided school to which Articles 128 to 131 apply, the board, the Board of Governors or the principal to make available either generally or to prescribed persons, in such form and manner and at such time as may be prescribed—

- (a) such information relevant for the purposes of this Chapter as to the school hours[<sup>F121</sup>, terms and holidays] at the school; and
- (b) such information as to the policies determined under Article 131 which apply in relation to the school,

as may be prescribed.

(6) Any sum payable under Article 130 or 132 to 135[<sup>F122</sup> or 136A] by the parent of any <sup>F123</sup> . . . pupil at a grant#aided school shall be recoverable summarily as a civil debt.

[<sup>F124</sup>(7) Nothing in this Chapter shall apply in relation to a school established in a hospital; but no charge shall be made in respect of admission to, or education or equipment provided to a pupil at, any such school.]

**F117** Word in art. 137(2)(b) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, Sch. 3 Pt. III; S.R. 2007/197, art. 2, Sch.

**F118** Word in art. 137(3) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, Sch. 3 Pt. III; S.R. 2007/197, art. 2, Sch.

**Status:** Point in time view as at 01/04/2009.

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- F119** Word in art. 137(4) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F120** 1997 NI 5
- F121** 1993 NI 12
- F122** 1998 NI 13
- F123** Word in art. 137(6) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F124** 1993 NI 12

## Interpretation of Chapter II

**138.**—(1) In this Chapter—

- (a) “equipment” does not include clothing;
- (b) “excepted pupil” has the meaning assigned to it by Article 127(4);
- (c) references to a public examination<sup>F125</sup> . . . are references to such an examination as it applies in relation to persons entered for any [F126specification] for that examination with a view to meeting the examination requirements for that [F126specification] so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment for the purposes of determining the achievements of persons entered for that examination takes place;
- (d) references to an examination requirement for a [F126specification] for any such examination are references to any requirements a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that [F126specification] ; and
- (e) “residential trip” has the meaning given by Article 128(10).

(2) For the purposes of paragraph (1) an assessment for the purposes of determining the achievements of persons entered for any examination is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any [F126specification] in that examination who has met the examination requirements for that [F126specification] whether that person has passed or failed and, if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

*Para. (3) rep. by 1997 NI 15*

**F125** 1993 NI 12

**F126** Word in art. 138 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. 13**

## CHAPTER III

### COMMUNITY USE OF SCHOOL PREMISES

#### Community schools

**139.**—(1) The Department may, on the application of the managers of a grant#aided school, designate that school as a community school.

(2) The Department shall not designate a school as a community school unless it appears to the Department that—

- (a) activities other than school activities ( “non#school activities”) are carried on on the school premises; and



- (b) the activities which are so carried on are carried on wholly or mainly under the management or control of the Board of Governors of the school.
- (3) A designation by the Department under paragraph (1) may be subject to such terms and conditions as the Department thinks fit.
- (4) Before deciding whether to designate a grant#aided school as a community school in pursuance of an application by the managers of the school the Department shall ensure that—
- (a) particulars of the application have been furnished to any board and the trustees or managers of any school which would, in the opinion of the Department, be a#ected by the designation;
  - (b) an opportunity is given to any such board, trustees or managers to make representations to the Department; and
  - (c) any representations so made are taken into account by the Department.
- (5) The voting members of the Board of Governors of a grant#aided school which is designated under paragraph (1) as a community school shall co#opt not less than one and not more than three appropriate persons to be members of the Board of Governors of the school.
- (6) In paragraph (5) “appropriate persons” means persons appearing to the voting members to be representative of the persons who take part in the non#school activities carried on on the school premises.
- (7) Members co#opted to the Board of Governors of a school under this Article shall be additional to any members co#opted under Article 122 and in this Article “voting members” has the same meaning as in that Article.
- (8) This Article does not apply to<sup>F127</sup> a school established in a hospital.]

F127 1993 NI 12

### **Community use of school premises**

**140.** Subject to regulations—

- (a) the managers and Board of Governors of every controlled school;
- (b) the trustees and managers of every voluntary school and grant#maintained integrated school,

shall, in exercising their respective powers in relation to the school premises<sup>F128</sup> (including, without prejudice to the generality of the foregoing words, any powers under Article 62 or under Article 32 of the Education and Libraries (Northern Ireland) Order 1993)], have regard to the desirability of the premises being made available (when not required by or in connection with the school) for use by members of the community served by the school.

F128 1993 NI 12

*Status: Point in time view as at 01/04/2009.*

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## PART IX

### THE COUNCIL FOR CATHOLIC MAINTAINED SCHOOLS

#### The Council for Catholic Maintained Schools

**141.**—(1) There shall be established a body to be known as the Council for Catholic Maintained Schools (in this Part referred to as “the Council”).

(2) The provisions of Schedule 8 shall apply in relation to the Council.

(3) For the purposes of this Order a Catholic maintained school is a maintained school which is for the time being designated in a scheme under paragraph (4).

(4) The Department, after consultation with the Council, shall make a scheme designating those maintained schools which are to be Catholic maintained schools for the purposes of this Order.

(5) The Department—

(a) shall make such amendments to the scheme under paragraph (4) as are required by Article 14(9C) of<sup>F129</sup> . . . the principal Order;

(b) may make such other amendments to that scheme as appear to it to be necessary or desirable.

(6) For the purposes of this Part a school becomes a Catholic maintained school on the date on which it is first included in the scheme under paragraph (4).

**F129** 1993 NI 12

#### Functions of the Council

**142.**—(1) The Council shall—

(a) advise the Department or a board on such matters relating to Catholic maintained schools as the Department or board may refer to the Council or as the Council may see fit;

(b) promote and co#ordinate, in consultation with the trustees of Catholic maintained schools, the planning of the e#ective provision of Catholic maintained schools;

(c) promote the e#ective management and control of Catholic maintained schools by the Boards of Governors of such schools;

(d) with the approval of the Department, provide or secure the provision of such advice and information to the trustees, Boards of Governors, principals and sta# of Catholic maintained schools as appears to the Council to be appropriate in connection with the Council's duty under sub#paragraph (c);

(e) exercise such other functions as are conferred on it by the Education Orders.

(2) The Council may advise any body (other than the Department or a board) on such matters relating to Catholic maintained schools as that body may refer to the Council or as the Council may see fit.

(3) The Council shall consult with the trustees, Boards of Governors and principals of Catholic maintained schools about the exercise by the Council of its functions.

(4) The Council may require the managers of a Catholic maintained school to make such reports and returns, and give such information, to the Council as the Council may reasonably require for the purposes of its functions, being reports or returns or information which cannot (for whatever reason) be obtained by the Council from the Department or a board.

### **[<sup>F130</sup>Employment of teachers by the Council**

**143.**—(1) The Council may employ all such teachers as are required on the staff of Catholic maintained schools.

(2) The Council shall prepare, and may from time to time revise, a scheme providing for the procedures to be followed by—

- (a) the Council;
- (b) the diocesan education committee established under paragraph 3 of Schedule 8; and
- (c) the Boards of Governors of Catholic maintained schools,

in relation to the appointment of teachers under paragraph (1).

(3) Before preparing a scheme under paragraph (2), the Council shall consult the Board of Governors of every Catholic maintained school.

(4) A scheme under paragraph (2) shall—

- (a) require the Council to appoint a panel of assessors in relation to each diocesan education committee; and
- (b) make provision for members of that panel to give advice and assistance to the diocesan education committee or the Board of Governors of a Catholic maintained school in relation to any functions of that committee or Board under the scheme.

(5) It shall be the duty of the bodies mentioned in paragraph (2) to give effect to a scheme for the time being in force under that paragraph.]

**F130** 1998 NI 13

### **Transfer of teachers to employment of Council**

**144.**—(1) Subject to paragraph (2), this Article applies to any teacher employed by the Board of Governors of a school immediately before the date on which that school becomes a Catholic maintained school (in this Article referred to as “the transfer date”).

(2) This Article does not apply to a teacher whose contract of employment terminates on the day immediately preceding the transfer date.

(3) References below in this Article to the former employer in relation to a teacher are references to the Board of Governors by which that teacher was employed immediately before the transfer date.

(4) The contract of employment between a teacher to whom this Article applies and the former employer shall have effect from the transfer date as if originally made between him and the Council.

(5) Without prejudice to paragraph (4)—

- (a) all the former employer's rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the Council on the transfer date; and
- (b) anything done before that date by or in relation to the former employer in respect of that contract or the teacher shall be deemed from that date to have been done by or in relation to the Council.

(6) Paragraphs (4) and (5) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.

*Status: Point in time view as at 01/04/2009.*

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### **Functions of the Council in relation to development proposals**

**145.**—(1) In Article 14 of the principal Order in paragraph (2) for the words from “that person” to the end there shall be substituted the words—

“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 the board for the area in which the school is, or is to be, situated together with the Council's views thereon;
- (ii) in any other case, the person making the proposal shall submit the proposal to the board for the area in which the school is, or is to be, situated,

and that board 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.” .

(2) In Article 14(7) of the principal Order after the words “making the proposal” there shall be inserted the words “ and, in a case to which paragraph (2)(i) applies, the Council for Catholic Maintained Schools ”.

(3) In Article 14 of the principal Order after paragraph (9B) there shall be inserted the following paragraph—

“(9C) Where the Department approves under paragraph (9) a proposal submitted to a board 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.” .

### **Miscellaneous functions of the Council under the principal Order**

**146.**—(1) The principal Order shall have effect subject to the amendments specified in the following provisions of this Article, being amendments to confer on the Council certain functions under that Order or amendments otherwise consequential on the establishment of the Council.

*Para. (2) rep. by 1996 NI 1*

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

(4) For Article 100 there shall be substituted the following Article—

#### **“Determination of disputes**

**100.** Any dispute arising between—

- (a) a board and the trustees or managers of a voluntary school;
- (b) a board and the Board of Governors of a grant#maintained integrated school;
- (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.”.

*Paras.(5), (6) rep. by 1993 NI 12*

(7) A scheme of management in force in relation to a school immediately before it becomes a Catholic maintained school shall continue in force until replaced by a scheme prepared under Article 9B(3) of<sup>F131</sup> the principal Order].

F131 1993 NI 12

## PART X

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Training*

*Art. 147 rep. by 1997 NI 15*

#### **Information and training for Boards of Governors, governing bodies, etc.**

**148.**—(1) Every board shall, in accordance with a programme<sup>F132</sup> prepared] under Article 149, secure the provision to—

- (a) every member of the Board of Governors of a controlled school under its management;
- (b) every member of the Board of Governors of a maintained school maintained by it;
- (c) every member of the Board of Governors of any other voluntary or grant#maintained integrated school situated in its area;

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

*Sub-para. (e) rep. by 1997 NI 15*

of such training as is necessary for the e#ective discharge of his functions under the Education Orders.

(2) A board may provide to any such person as is mentioned in paragraph (1)(a)<sup>F133</sup> to (c)] such information as the board considers appropriate in connection with the discharge of his functions under the Education Orders.

(3) Without prejudice to paragraph (2), every board shall provide to—

- (a) every member of the Board of Governors of a controlled school under its management or of a maintained school (other than a Catholic maintained school) maintained by it, a copy of the scheme of management for the school;

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

(4) The Council for Catholic Maintained Schools shall provide to every member of the Board of Governors of a Catholic maintained school a copy of the scheme of management for the school.

(5) The Department may secure the provision to members of the Boards of Governors of grant# aided schools<sup>F134</sup> . . . <sup>F135</sup> . . . of such training and such information as the Department considers appropriate in connection with the discharge of their functions under the Education Orders.

(6) Documents, information and training provided under this Article shall be provided free of charge.

(7) The Department or a board may pay to persons undergoing training secured by it under this Article travelling and other allowances at such rate or of such amount and subject to such conditions as the Department or board (as the case may be) may determine.

F132 2003 NI 12

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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)

**F133** 1997 NI 15

**F134** 1993 NI 12

**F135** 1997 NI 15

### Programmes of training by boards

**149.**—(1) A board shall<sup>F136</sup> . . . prepare<sup>F136</sup> . . . a programme of the provision it proposes to secure—

(a) for the further training of teachers, in pursuance of its duty under a scheme under Article 29;

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

(c) for the training of persons mentioned in paragraph (1)(a)[<sup>F137</sup> to (c)] of Article 148, in pursuance of its duty under that paragraph.

(2) Before preparing a programme under paragraph (1) a board shall consult—

(a) the Board of Governors of—

(i) every controlled school under its management;

(ii) every maintained school maintained by it;

(iii) every other voluntary or grant#maintained integrated school situated in its area;

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

*Sub-para. (c) rep. by 1997 NI 15*

(d) the Council for Catholic Maintained Schools;

[<sup>F138</sup>(e) the Northern Ireland Council for the Curriculum, Examinations and Assessment;]

(f) such other persons as the board considers appropriate.

*Paras.(3), (4) rep. by 2003 NI 12*

(5) It shall be the duty of a board to give effect to the provisions of any programme which has been<sup>F136</sup> prepared by it] under this Article.

[<sup>F136</sup>(6) A board may at any time prepare a revised programme or an amendment to an existing programme; and paragraphs (2) and (5) apply in relation to any such revised programme or amendment as they apply in relation to the original programme.]

**F136** 2003 NI 12

**F137** 1997 NI 15

**F138** 1993 NI 12

### Miscellaneous

#### Procedures for carrying out by certain bodies of their activities

**150.**—(1) Each board shall, at such intervals and in accordance with such arrangements as may be determined by the Department after consultation with the boards, review its procedures for the carrying out of such activities as the Department may direct with a view to ensuring that such activities are carried out as effectively, efficiently and economically as practicable.

(2) The Department may direct that paragraph (1) shall apply to any of the bodies or persons listed in Article 101(3)(b) to (h) of the principal Order as it applies to a board but with the substitution for the reference to consultation with the boards of a reference to consultation with the bodies or persons concerned.

*Paras.(3), (4) rep. by 1993 NI 12*

(5) References in this Article to the carrying out of activities include references to the provision of services.

### Review of performance of teachers

**151** <sup>F139</sup>.—(1) The Department may by regulations make provision requiring employing authorities to secure that the performance of teachers to whom the regulations apply—

- (a) in discharging their duties; and
- (b) in engaging in other activities connected with the establishments at which they are employed,

is regularly reviewed in accordance with such requirements as may be prescribed.

(2) The regulations may, in particular, make provision—

- (a) requiring the Boards of Governors of controlled schools and Catholic maintained schools and the governing bodies of institutions of further education—
  - (i) to secure that any arrangements made in accordance with the regulations are complied with in relation to their establishments;
  - (ii) to provide such assistance to the employing authority as that authority may reasonably require in connection with its obligations under the regulations;
- (b) with respect to the disclosure to teachers of the results of reviews and the provision of opportunities for them to make representations with respect to those results; and
- (c) requiring employing authorities to have regard to the results of reviews in the exercise of such of their functions as may be prescribed.

(3) The regulations may be expressed to apply to any of the following categories of teacher, that is to say—

- (a) teachers employed in grant#aided schools;
- (b) teachers employed in institutions of further education;

*Sub-para. (c) rep. by 1993 NI 12*

- (d) peripatetic teachers.

(4) Before making any regulations under paragraph (1), the Department shall consult—

[<sup>F140</sup>(a) the General Teaching Council for Northern Ireland; and]

- (b) any other person with whom consultation appears to it to be desirable.

(5) In this Article “employing authority” means—

- (a) in relation to teachers employed in controlled schools<sup>F141</sup>. . . , the board by which they are employed;
- (b) in relation to teachers<sup>F142</sup>. . . 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 managers 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, the board by which they are employed;

[<sup>F143</sup>(f) in relation to teachers employed in an institution of further education, the governing body of that institution.]

**F139** certain functions transf. by SR 1999/481

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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)

**F140** 1998 NI 13

**F141** 1997 NI 15

**F142** 1993 NI 12

**F143** 1997 NI 15

### Educational projects by Department

**152** <sup>F144</sup>. The Department may carry out any project appearing to the Department to be associated with the provision of educational <sup>F145</sup> . . . services or recreational, social, cultural, physical or youth service activities or services ancillary to education.

**F144** certain functions transf. by SR 1999/481

**F145** Words in art. 152 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(f)(g)

### [<sup>F146</sup> Appointment of teachers by a board

**153.**—(1) Each board shall prepare, and may from time to time revise, a scheme providing for the procedures to be followed in relation to the appointment by the board of—

- (a) teachers to posts in controlled schools; and
- (b) peripatetic teachers.

(2) A scheme under paragraph (1) may provide for any specified functions of the board under the scheme to be performed by the teaching appointments committee of the board on behalf of, and in the name of, the board.

(3) Before preparing a scheme under paragraph (1), a board shall consult the Board of Governors of every controlled school managed by the board.

(4) It shall be the duty of the board to give effect to a scheme for the time being in force under paragraph (1).]

**F146** 1998 NI 13

### *Miscellaneous amendments to the principal Order*

*Art. 154 rep. by 1993 NI 12*

*Art. 155 rep. by 1996 NI 1*

### Compulsory school age

**156.** For Article 46 of the principal Order there shall be substituted the following Articles—

#### “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—



- (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.

#### **Commencement of secondary education**

**46A.** Unless the Department otherwise directs in a particular case, 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.”.

*Art. 157 rep. by 1998 NI 13*

#### **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;

**Status:** Point in time view as at 01/04/2009.

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- (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<sup>F147</sup> shall not apply to any order made under paragraph (7).”.

## Grants for provision of educational or library services, etc.

159. For Article 115 of the principal Order there shall be substituted the following Article—

### “Grants for educational or library services, etc.

115.—(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 or library 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) a board; or

(b) the trustees or managers of—

(i) a voluntary school; or

(ii) a grant#maintained integrated school.

(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

(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<sup>F148</sup>.

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

F148 1972 c. 9 (N.I.)

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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)*

### Filling of certain casual vacancies in boards

**160.** In paragraph 2 of Schedule 2 to the principal Order after sub#paragraph (3) there shall be added—

“(4) As soon as possible after the date on which a vacancy occurs among the members of a board appointed under paragraph 1(2)(a) and in any event within two months of that date, the appropriate council shall select a member of that council to be nominated by it to the board to fill that vacancy and shall send to the Head of the Department the name and address of the person so nominated.

(5) If the appropriate council fails to nominate a member to a board in accordance with sub#paragraph (4), the Head of the Department may, on behalf of that council, nominate a person who is a member of that council and that nomination shall be deemed for all purposes to be a nomination by that council.

(6) Sub#paragraphs (4) and (5) do not apply where the Head of the Department fills the vacancy in question by re#appointing a person under paragraph 6(5) and notifies the appropriate council of that re#appointment.

(7) In sub#paragraphs (4) to (6) “the appropriate council” in relation to a vacancy means the council by which the member being replaced was nominated.”.

*Art. 161 rep. by 2003 NI 12*

### Supplementary

### Temporary exclusion of section 5 of Data Protection Act 1984

**162.**—(1) Where personal data are transferred under any provision of this Order to a body corporate established under this Order, section 5(1) of the Data Protection Act 1984<sup>F149</sup> (prohibition of unregistered holding, etc., of personal data) shall not apply in relation to the holding by that body corporate of the data so transferred or any data of the same description as the data so transferred until the end of the period of six months beginning with the date on which the data are transferred.

(2) Expressions used in paragraph (1) to which a meaning is given for the purposes of that Act of 1984 have the same meaning in that paragraph.

**F149** 1984 c. 35

### Stamp duty

**163.** Stamp duty shall not be chargeable in respect of any transfer e#ected under Article<sup>F150</sup> . . . 75, 83, 84 or 95 or paragraph 4(2) of Schedule 6.

**F150** 1993 NI 12

### Regulations and orders

**164.**—(1) All regulations under this Order shall be subject to negative resolution.

(2) The Statutory Rules (Northern Ireland) Order 1979<sup>F151</sup> shall not apply to any order made by the Department under Article<sup>F152</sup> . . . 71(13), 76(1)(b), 82(1), 84(2), 86(1) or 102(6) or paragraph 1 of Schedule 6.

(3) Except as provided by paragraphs (4) and (5), all other orders made by the Department under this Order shall be subject to negative resolution.

(4) Orders under <sup>F153</sup> . . . 46(7), 60(8) or 77(13) or paragraph 2(4) or 3(7) of Schedule 8 shall be subject to affirmative resolution.

(5) Paragraph (3) does not apply to an order under Article 1(3).

(6) Regulations and orders under this Order may contain such transitional provision as the Department thinks fit.

**F151** 1979 NI 12

**F152** 1993 NI 12

**F153** Words in art. 164(4) repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(2), **Sch. 3 Pt. 1**

### **Transitional provisions**

*Paras.(1), (2) rep. by 1993 NI 12*

(3) Until the coming into operation in relation to a school of a scheme of management prepared under Article 9B of the principal Order, the scheme approved for the school under Article 10(3) or 11(2) of that Order shall continue in operation in relation to the school.

(4) References in the Education Orders to a scheme of management shall include references to a scheme continuing in operation under paragraph (3); but nothing in any provision of those Orders shall be construed as requiring such a scheme to make any provision which it was not required to make before the making of this Order.

*Para. (5) rep. by 1993 NI 12*

(6) The Department may by order make such other transitional provision (including the adaptation of any provision of the Education Orders) as appears to the Department to be necessary or expedient in connection with the coming into operation of any provision of this Order.

*Art. 166—Amendments*

*Art. 167—Repeals*

**Status:**

Point in time view as at 01/04/2009.

**Changes to legislation:**

The Education Reform (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 05 May 2024. 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.