
STATUTORY INSTRUMENTS

1989 No. 2406

The Education Reform(Northern Ireland) Order 1989

PART IV

ADMISSION OF CHILDREN TO GRANT-AIDED SCHOOLS

Parental preferences

36.—(1) Every board shall make arrangements for enabling the parent of a child resident in the area of the board to express a preference as to the school at which he wishes education to be provided for his child and to give reasons for his preference.

(2) It shall be the duty of the Board of Governors of a grant-aided school—

- (a) to make arrangements for the admission of pupils to the school;
- (b) subject to paragraphs (3) and (4), to comply with any preference expressed in accordance with arrangements made under paragraph (1).

(3) The duty imposed by paragraph (2)(b) does not apply if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources; but no such prejudice shall be taken to arise from the admission to a school in any school year of a number of pupils in the relevant age group which does not exceed the school's admissions number for that school year.

(4) The duty imposed by paragraph (2)(b) does not apply if—

- (a) the preferred school is a grammar school; and
- (b) compliance with the preference would be detrimental to the educational interests of the child concerned.

(5) A parent who makes an application for the admission of his child to, or to a person acting on behalf of, the Board of Governors of a grant-aided school shall be regarded for the purposes of paragraph (2)(b) as having expressed a preference for that school in accordance with arrangements made under paragraph (1).

(6) The duty imposed by paragraph (2)(b) in relation to a preference expressed in accordance with arrangements made under paragraph (1) shall apply also in relation to—

- (a) any application for the admission to a grant-aided school of a child who is not resident in the area of the board in which the school is situated;
- (b) any application made as mentioned in Article 44(3) or (4) for a child to be admitted to a grant-aided school;

and references in paragraphs (3) and (4) to a preference and a preferred school shall be construed accordingly.

Appeals against admission decisions

37.—(1) Every board shall make arrangements for enabling the parent of a child to appeal against any decision made by or on behalf of the Board of Governors of a grant-aided school situated in the area of the board refusing the child admission to the school.

(2) Any appeal by virtue of this Article shall be to an appeal tribunal constituted in accordance with regulations under paragraph (7).

(3) An appeal by virtue of this Article may be brought only on the ground that the criteria drawn up under Article 38 for selecting pupils for admission to the school were not applied, or not correctly applied, in deciding to refuse the child admission to the school.

(4) On the hearing of an appeal under this Article—

- (a) if it appears to the appeal tribunal that the criteria drawn up under Article 38 for selecting pupils for admission to the school were not applied, or not correctly applied, in deciding to refuse the child admission to the school, the tribunal shall, subject to paragraph (5), allow the appeal and direct the Board of Governors of the school to admit the child to the school;
- (b) in any other case, the tribunal shall dismiss the appeal.

(5) If in the case mentioned in paragraph (4)(a) it appears to the appeal tribunal that had the criteria drawn up under Article 38 for selecting pupils for admission to the school been applied or (as the case may be) been correctly applied the child would have been refused admission to the school, the tribunal shall dismiss the appeal.

(6) It shall be the duty of the Board of Governors of a school to comply with any direction given to it under paragraph (4)(a).

(7) The Department shall by regulations provide for the constitution and procedure of appeal tribunals and, without prejudice to the generality of the foregoing, such regulations—

- (a) shall provide for the tribunals to be appointed by the board;
- (b) shall provide for the membership of such tribunals and may provide for disqualifying prescribed persons or descriptions of person for membership of such tribunals;
- (c) may provide for two or more tribunals to sit at the same time;
- (d) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the board.

(8) An appeal tribunal shall not be regarded as a committee of the board.

(9) Article 79(1) of the principal Order shall apply to members of an appeal tribunal in like manner as it applies to members of a board.

Criteria for admission to grant-aided schools

38.—(1) Subject to paragraphs (2) to (5), the Board of Governors of each grant-aided school shall draw up, and may from time to time amend, the criteria to be applied in selecting pupils for admission to the school.

(2) When drawing up or amending the criteria to be applied in selecting pupils for admission to—

- (a) a controlled school, the Board of Governors of the school shall consider any representations which are made to it regarding those criteria by the board responsible for the management of the school;
- (b) a Catholic maintained school, the Board of Governors of the school shall consider any representations which are made to it regarding those criteria by the Council for Catholic Maintained Schools.

(3) Any amendment of the criteria mentioned in paragraph (1) which is made in the course of a school year shall not apply in relation to the admission of pupils to the school in that school year.

(4) The criteria to be applied in selecting pupils in the relevant age group for admission to a secondary school shall not include the performance of the pupils in any test or examination held by, or on behalf of, the Board of Governors of a secondary school.

(5) A test or examination of an individual pupil held by a board at the request of the Board of Governors of a grammar school shall not be taken for the purposes of paragraph (4) to be a test or examination held by, or on behalf of, that Board of Governors.

- (6) Regulations may provide, in relation to any school or description of school,—
- (a) that the criteria to be drawn up under this Article shall include such matters or matters of such description as are specified in the regulations;
 - (b) that those criteria shall not include such matters or matters of such description as may be so specified.

Restriction on number of registered pupils at a grant-aided school

39.—(1) Subject to paragraph (2), the Board of Governors of a grant-aided school shall not cause or permit the number of registered pupils at the school at any time to exceed the school's enrolment number.

(2) In calculating for the purposes of paragraph (1) the number of registered pupils at a school at any time, no account shall be taken of any pupils registered at the school in compliance with a direction of an appeal tribunal or in compliance with a school attendance order.

(3) In this Part any reference to a school's enrolment number is a reference to the number for the time being applying under the following provisions of this Article to the school.

(4) Subject to paragraph (5), the enrolment number applying to a school shall be such number as the Department may, after consultation with the Board of Governors of the school, determine having regard in particular to—

- (a) the requirements of regulations under Article 18 of the principal Order which apply in relation to the school; and
- (b) the accommodation available for use by pupils at the school, other than—
 - (i) in the case of a boarding school, so much of the accommodation as is used wholly or mainly for boarding purposes; and
 - (ii) in the case of a grammar school, so much of the accommodation as is not available for use by pupils of the secondary department.

(5) The Department may—

- (a) direct that the enrolment numbers applying to schools of any class or description specified in the directions shall be varied in accordance with the directions;
- (b) on the application of, or after consultation with, the Board of Governors of an individual school, direct that the enrolment number applying to that school shall be varied in accordance with the directions.

(6) Directions given by the Department under paragraph (5)(b) on the application of the Board of Governors of an individual school shall specify as the new enrolment number applying to the school either the number specified by the Board of Governors in its application or—

- (a) in the case of an application to increase the enrolment number, such lesser number as the Department thinks fit;
- (b) in the case of an application to reduce the enrolment number, such greater number as the Department thinks fit.

(7) It shall be the duty of the Department—

- (a) when determining under paragraph (4) the enrolment number applying to a controlled school or varying that number under paragraph (5), to consider any representations which are made to it regarding that number by the board responsible for the management of the school;

- (b) when determining under paragraph (4) the enrolment number applying to a Catholic maintained school or varying that number under paragraph (5), to consider any representations which are made to it regarding that number by the Council for Catholic Maintained Schools.

(8) Where the Department determines a school's enrolment number under paragraph (4) or varies that enrolment number under paragraph (5), it shall send notice of the enrolment number so determined or varied to—

- (a) the Board of Governors of the school;
- (b) where the school is a controlled school, the board responsible for the management of the school;
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

Determination of admissions number for a school

40.—(1) In this Part any reference to a school's admissions number for a school year is a reference to the number for the time being applying under the following provisions of this Article to the school in relation to that school year.

(2) Subject to paragraph (4), the admissions number applying to a school shall, for the commencement year and any subsequent school year, be such number as the Department may, after consultation with the Board of Governors of the school, determine.

(3) In determining a school's admissions number for a school year the Department shall have regard in particular to—

- (a) the requirements of regulations under Article 18 of the principal Order which apply in relation to the school; and
- (b) the school's enrolment number.

(4) The Department may—

- (a) direct that the admissions numbers applying to schools of any class or description specified in the directions shall be varied in accordance with the directions;
- (b) on the application of, or after consultation with, the Board of Governors of an individual school, direct that the admissions number applying to that school shall be varied in accordance with the directions.

(5) Directions given by the Department under paragraph (4)(b) on the application of the Board of Governors of an individual school shall specify as the new admissions number applying to the school either the number specified by the Board of Governors in its application or—

- (a) in the case of an application to increase the admissions number, such lesser number as the Department thinks fit;
- (b) in the case of an application to reduce the admissions number, such greater number as the Department thinks fit.

(6) It shall be the duty of the Department—

- (a) when determining under paragraph (2) the admissions number applying to a controlled school or varying that number under paragraph (4), to consider any representations which are made to it regarding that number by the board responsible for the management of the school;
- (b) when determining under paragraph (2) the admissions number applying to a Catholic maintained school or varying that number under paragraph (4), to consider any

representations which are made to it regarding that number by the Council for Catholic Maintained Schools.

(7) Where the Department determines a school's admissions number under paragraph (2) or varies that admissions number under paragraph (4), it shall send notice of the admissions number so determined or varied to—

- (a) the Board of Governors of the school;
- (b) where the school is a controlled school, the board responsible for the management of the school;
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

(8) In paragraph (2) "the commencement year" means the school year beginning next after the coming into operation of this Article.

Requirement to admit pupils in accordance with admissions number

41.—(1) Subject to paragraphs (2) and (3), the Board of Governors of a grant-aided school shall not admit to the school in any school year a number of pupils in the relevant age group which exceeds the school's admissions number for that school year.

(2) In calculating for the purposes of paragraph (1) the number of pupils in the relevant age group admitted to a school in any school year no account shall be taken of any pupils admitted to the school in compliance with a direction of an appeal tribunal or in compliance with a school attendance order.

(3) The Department may, on the application of the Board of Governors of a school, approve the admission to that school in any particular school year of a number of pupils in the relevant age group which exceeds the school's admissions number for that school year, being either—

- (a) the number specified by the Board of Governors in its application; or
- (b) such lesser number as the Department thinks fit;

and, where any such approval is given, paragraph (1) shall have effect in relation to that school and that school year as if for the reference to the school's admissions number there were substituted a reference to the number approved under this paragraph.

(4) In determining whether and, if so, how to exercise its powers under paragraph (3) on an application made by the Board of Governors of a school in respect of a school year, the Department shall—

- (a) have regard in particular to—
 - (i) the criteria for admission to the school drawn up under Article 38; and
 - (ii) the number of applications received by or on behalf of the Board of Governors in respect of pupils in the relevant age group for admission to the school in that year; and
- (b) consider—
 - (i) where the application relates to a controlled school, any representations which are made to it regarding that application by the board responsible for the management of the school;
 - (ii) where the application relates to a Catholic maintained school, any representations which are made to it regarding that application by the Council for Catholic Maintained Schools.

(5) The Board of Governors of a grammar school shall not in any school year—

- (a) admit to the school a number of pupils in the relevant age group which is less than the school's admissions number for that school year; and

- (b) refuse admission to other pupils by virtue of paragraph (3) or (4) of Article 36, unless—
- (i) the Board of Governors of the school has obtained the Department’s approval to do so; and
 - (ii) the number of pupils admitted to the school in that school year in the relevant age group is not less than a number approved by the Department, being either the number specified by the Board of Governors in its application for an approval under this Article or such greater number as the Department thinks fit.
- (6) In determining whether to grant an approval under paragraph (5) to the Board of Governors of a school and in approving a number under that paragraph in relation to a school, the Department shall—
- (a) have regard in particular to the criteria for admission to the school drawn up under Article 38;
 - (b) where the approval relates to a controlled school, consider any representations which are made to it regarding that approval by the board responsible for the management of the school.
- (7) Where the Department grants an approval under this Article on the application of—
- (a) the Board of Governors of a controlled school, it shall send notice of the approval to the board responsible for the management of the school;
 - (b) the Board of Governors of a Catholic maintained school, it shall send notice of the approval to the Council for Catholic Maintained Schools.

Information as to schools and admission arrangements

- 42.**—(1) Every board shall, for each school year, publish, at such time and in such manner as the Department may direct, particulars of—
- (a) the arrangements made by the board under Articles 36(1) and 37(1); and
 - (b) the arrangements for the admission of pupils to each grant-aided school in its area.
- (2) The particulars to be published under paragraph (1)(b) for each school year in relation to a school shall include particulars of—
- (a) the school’s enrolment number;
 - (b) the school’s admissions number for that school year;
 - (c) the respective functions of the Board of Governors and principal in relation to admissions to the school; and
 - (d) the criteria for admission to the school drawn up under Article 38.
- (3) The Board of Governors of every grant-aided school shall, as respects that school, publish—
- (a) such information as may be required by regulations;
 - (b) such other information, if any, as the Board of Governors thinks fit.
- (4) Every board shall publish such information as may be required by regulations with respect to its policy and arrangements in respect of any matter relating to primary or secondary education in its area.
- (5) The board may, with the agreement of the Board of Governors of any grant-aided school situated in the area of the board, publish on behalf of the Board of Governors the particulars or information relating to the school referred to in paragraph (3).
- (6) References in paragraphs (3) to (5) to publication are references to publication at such time or times and in such manner as may be required by regulations.

Exceptions

43.—(1) Subject to paragraph (2), none of the provisions of Articles 36 to 42, other than paragraphs (3) to (5) of Article 42, have effect in relation to—

- (a) nursery schools; or
- (b) children who will not have attained compulsory school age at the time of their proposed admission.

(2) Where the arrangements for the admission of pupils to a grant-aided school provide for the admission to the school of children who will not be of compulsory school age at the time of their proposed admission—

- (a) those Articles shall have effect in relation to the admission of such pupils to the school otherwise than for nursery education;
- (b) the transfer to a reception class at the school of children previously admitted to the school for nursery education shall be treated for the purposes of those Articles as the admission of pupils to the school.

(3) For the purposes of paragraph (2)—

- (a) children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class; and
- (b) “reception class” means a class in which education is provided which is suitable to the requirements of pupils aged four and any pupils over that age whom it is expedient to educate together with pupils of that age;
- (c) “nursery class” means a class in which education is provided which is suitable to the requirements of pupils who have attained the age of two years but have not attained the lower limit of compulsory school age.

(4) None of the provisions of Articles 36 to 42, other than paragraphs (3) to (5) of Article 42, have effect in relation to—

- (a) special schools or children in respect of whom statements are maintained under Article 31 of the principal Order; or
- (b) the preparatory departments of grammar schools.

Determination of school to be named in school attendance order

44.—(1) Before serving a school attendance order on a parent under paragraph 1(2) of Schedule 13 to the principal Order, a board shall serve on him a written notice of its intention to serve the order—

- (a) specifying the school which it intends to name in the order and, if it thinks fit, one or more other schools which it regards as suitable alternatives; and
- (b) stating the effect of paragraphs (2) and (3);

but no voluntary or grant-maintained integrated school shall be specified in the notice unless the board has consulted the managers of the school.

(2) If the notice specifies one or more alternative schools and the parent selects one of them and notifies the board accordingly before the expiration of the period of fourteen days beginning with the day after that on which the notice is served, the school selected by him shall be named in the order.

(3) If before the expiration of the period mentioned in paragraph (2) the parent—

- (a) applies for the child to be admitted to a school other than the school or schools specified in the notice; and
- (b) notifies the board accordingly,

then, if as a result of the application the child is offered a place at that school, that school shall, subject to paragraph (5), be named in the order.

(4) If at any time while a school attendance order is in force with respect to a child—

(a) the parent applies for the child to be admitted to a school other than the school named in the order; and

(b) as a result of the application the child is offered a place at a school,

the board by which the order was served shall, subject to paragraph (5), at the request of the parent amend the order by substituting that school for the one previously named.

(5) Paragraphs (3) and (4) do not apply where the school at which the child is offered a place is an independent school unless, in the opinion of the board, the school is suitable to his age, ability and aptitude and to any special educational needs he may have.

(6) This Article does not apply to children in respect of whom a board maintains a statement of special educational needs under Article 31 of the principal Order; but, except in relation to such children,—

(a) paragraphs (1) to (3) and (5) supersede paragraph 1(3) and (4) of Schedule 13 to the principal Order;

(b) paragraphs (4) and (5) supersede paragraph 2(1) and (2) of that Schedule, so far as it relates to the amendment of a school attendance order.

Interpretation of Part IV

45.—(1) In this Part—

(a) any reference to a school's enrolment number shall be construed in accordance with Article 39(3);

(b) any reference to a school's admissions number for a school year shall be construed in accordance with Article 40(1);

(c) any reference to the admission of a child to a school shall, in the case of a grammar school having a preparatory department, be construed as a reference to the admission of a child to the secondary department of that school;

(d) any reference to pupils registered at a school shall, in the case of a grammar school having a preparatory department, be construed as a reference to pupils registered in the secondary department of that school;

(e) any reference to the preparatory department of a grammar school is a reference to that part of the grammar school in which primary education is provided;

(f) any reference to the secondary department of a grammar school is a reference to that part of the grammar school in which secondary education is provided;

(g) any reference to the relevant age group—

(i) in relation to a grammar school having a preparatory department, is a reference to the age group in which pupils below the upper limit of compulsory school age are normally admitted to the secondary department of the school;

(ii) in relation to any other school, is a reference to the age group in which pupils below the upper limit of compulsory school age are normally admitted to the school;

(h) any reference to an appeal tribunal is a reference to an appeal tribunal constituted in accordance with regulations under Article 37(7);

(i) any reference to a school year is a reference to a year ending on 31st July.

(2) Directions and approvals of the Department under this Part shall be given in writing.

- (3) In this Part any reference to the Board of Governors of a school includes—
- (a) in relation to a voluntary school referred to in Article 11(8) of the principal Order, a reference to the person approved in relation to that school by the Department under the said Article 11(8);
 - (b) in relation to a technical secondary school conducted in association with an institution of further education, a reference to the governing body of the institution.