

---

STATUTORY INSTRUMENTS

---

**1989 No. 2406**

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

**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, or paragraph 1(3)(b) of Schedule 5 to, 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).

**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 effective provision of Catholic maintained schools;
- (c) promote the effective 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 staff 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.

### **Employment of teachers by the Council**

**143.**—(1) The Council may—

- (a) employ all such teachers as are required on the staffs of Catholic maintained schools;
- (b) with the approval of the Department, employ teachers (to be called “supply teachers”) for the purposes of temporarily filling vacancies which may arise in the staffs of Catholic maintained schools.

(2) Supply teachers employed by the Council may, with the approval of the Council, work in a controlled school, a voluntary school other than a Catholic maintained school or a grant-maintained integrated school if so requested by the managers of that school.

(3) Within such time after the appointed day as the Department may direct, the Council shall prepare and submit to the Department a scheme providing for the procedures to be followed by—

- (a) the Council;
- (b) the diocesan education committees 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).

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

(5) In preparing a scheme under paragraph (3) the Council shall take into account any guidance given by the Department, after consultation with the Council and such other persons as appear to the Department to be concerned, as to the provisions it regards as appropriate for inclusion in a scheme under that paragraph.

(6) A scheme under paragraph (3) shall require the Council to appoint a panel of assessors in relation to each diocesan education committee and shall 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.

(7) The Department may, after making such modifications (if any) in a scheme submitted to it by the Council as after consultation with the Council it considers necessary or expedient, approve the scheme.

(8) It shall be the duty of the bodies mentioned in paragraph (3) to give effect to the provisions of a scheme under that paragraph which has been approved by the Department.

(9) Where—

- (a) the Council fails to submit a scheme to the Department under paragraph (3) by the date directed by the Department; or
- (b) it appears to the Department that a scheme submitted by the Council as required by that paragraph does not accord with any guidance given by it for the purposes of this Article and cannot be made to do so merely by modifying it,

the Department may, after consultation with the Council and such other persons as appear to the Department to be concerned, make a scheme which shall be treated for the purposes of paragraphs (8) and (10) as if it had been prepared by the Council and approved by the Department under this Article.

(10) The Council may at any time, and shall if the Department so directs, prepare and submit to the Department a revised scheme or an amendment to the existing scheme and paragraphs (4) to (9) (except (9)(a)) shall apply in relation to any such revised scheme or amendment as they apply in relation to the scheme.

### **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.

### **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.

(2) In Article 32 after paragraph (3) there shall be inserted the following paragraph—

“(3A) The Council for Catholic Maintained Schools shall use its best endeavours in exercising its functions under Article 143 in relation to a Catholic maintained school which is an ordinary school to secure that if any child attending the school has special educational needs the special educational provision that is required for him is made.”.

(3) In Article 49—

(a) in paragraph (2) after the words “voluntary school” there shall be inserted the words “(except a Catholic maintained school)”;

(b) after paragraph (2A) there shall be inserted the following paragraph—

“(2B) The Council for Catholic Maintained Schools shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from Catholic maintained schools.”.

(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.”.

(5) For paragraph 1 of Schedule 5 there shall be substituted the following paragraph—

“**1.**—(1) The managers or trustees of a voluntary school, other than a voluntary grammar school, may make a request to a board that the school become a maintained school or a Catholic maintained school.

(2) Without prejudice to the right of the managers or trustees to make a further request under sub-paragraph (1), a board may, with the approval of the Department, refuse a request made under sub-paragraph (1), but the Department shall not give such approval unless the board satisfies it that the condition of the premises of the school is such that it would be

unreasonable to expect the board to assume responsibility for the maintenance of those premises.

(3) Where a board approves a request under sub-paragraph (1) for a school to become a Catholic maintained school—

- (a) the board shall notify the managers or trustees of the school, the Department and the Council for Catholic Maintained Schools in writing of that approval;
- (b) the Department shall amend the scheme under Article 141(4) of the 1989 Order so as to designate the school as a Catholic maintained school; and
- (c) the Council for Catholic Maintained Schools shall make such provision (if any) as is necessary to ensure that a scheme of management complying with paragraph 2 is framed for or applied to the school.

(4) Where the board approves a request under sub-paragraph (1) for a school to become a maintained school (other than a Catholic maintained school), it shall make provision for a scheme of management for the school complying with paragraph 2.

(5) Two or more maintained primary schools, other than nursery schools, may be grouped under one Board of Governors where the managers or trustees of the schools so request and—

- (a) in the case of Catholic maintained schools, the Council for Catholic Maintained Schools, with the approval of the Department, so determines;
- (b) in the case of other maintained schools, the board, with the approval of the Department, so determines.

(6) Nothing in any instrument of government of a school shall—

- (a) prevent the constitution of a Board of Governors for that school in accordance with a scheme of management complying with paragraph 2 or the doing by the managers or trustees of that school of anything necessary for or incidental to the constitution and functioning of such a Board of Governors; or
- (b) restrict the powers under sub-paragraph (5) of the managers or trustees of that school or the application of that sub-paragraph to that school.

(7) The managers or trustees of a school may, at any time before they have signified their approval of a scheme of management for the school complying with paragraph 2, withdraw their request under this paragraph.”.

(6) In paragraph 2(1) of Schedule 5 for the words from the beginning to “and shall” there shall be substituted the words “The scheme of management for a maintained school shall”.

(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 that Order.