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STATUTORY INSTRUMENTS

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**1989 No. 2406**

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

**PART VII**

**FURTHER AND HIGHER EDUCATION**

*Provisions relating to staff during financial delegation*

**Delegation of certain powers as to staff**

**114.**—(1) This Article applies to an institution of further education at any time when financial delegation is required in respect of the institution for the current financial year under any scheme, subject to any suspension, limitation or restriction under Article 117 of the powers conferred on the governing body under this Article or Article 115.

(2) A scheme may include provision with respect to the complement and the dismissal of staff at any institution to which this Article for the time being applies and (without prejudice to the inclusion of other provisions as to staff and other costs to be met from the budget share of any such institution) with respect to costs incurred by the board in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff.

(3) Subject to any provision of the relevant scheme or the articles of government of the institution, in the case of any institution to which this Article for the time being applies it shall be for the governing body of the institution to determine what staff (both full-time and part-time) are for the time being required for the purposes of the institution.

(4) Subject to any provision of the relevant scheme or the articles of government of the institution, where the governing body of an institution to which this Article for the time being applies notifies the board concerned in writing that it has determined that any person employed to work at the institution under a particular contract of employment should cease to work there under that contract—

- (a) if the person concerned is employed under the contract of employment in question to work solely at the institution, the board shall, before the end of the period of one month beginning with the date on which the notification is given in relation to him, either—
  - (i) give him such notice terminating that contract of employment with the board as is required under that contract; or
  - (ii) terminate that contract without notice if the circumstances are such that the board is entitled to do so by reason of his conduct; and
- (b) in any other case, the board shall require the person concerned to cease to work at the institution.

(5) The articles of government of an institution to which this Article for the time being applies shall provide for it to be the duty of the governing body to consult the chief education officer of the board concerned before making any determination which would have the effect of removing senior staff from work at the institution.

In this paragraph “senior staff” means staff who fall in accordance with the articles to be treated as senior staff for the purposes of any such provision.

(6) It shall be the duty of the chief education officer to offer advice when consulted in accordance with any such provision, and the duty of the governing body to consider any advice so offered.

(7) Subject to any provision of the articles of government of the institution—

(a) the regulation of conduct and discipline in relation to the staff of an institution to which this Article for the time being applies, and any procedures for affording to members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body; and

(b) where the implementation of any determination made by the governing body in the exercise of that control requires any action which—

(i) is not within the functions exercisable by the governing body by virtue of the Education Orders; but

(ii) is within the powers of the board concerned,

it shall be the duty of the board to take that action at the request of the governing body.

(8) References in this Article to the chief education officer of a board include references to any officer of the board nominated by the chief education officer.

### **Costs of dismissal, premature retirement or voluntary severance**

**115.**—(1) Subject to any provision of the relevant scheme or the articles of government of the institution and paragraph (2), it shall be for the governing body of any institution to which Article 114 for the time being applies to determine—

(a) whether any payment should be made by the board concerned in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the institution; and

(b) the amount of any such payment.

(2) Paragraph (1) does not apply in relation to any payment which the board is required to make—

(a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or

(b) under any statutory provision.

(3) The board concerned—

(a) shall take such steps as may be required for giving effect to any determination of the governing body of any such institution under paragraph (1); and

(b) shall not make, or agree to make, any payment to which that paragraph applies in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of any such institution otherwise than in accordance with any such determination.

(4) Subject to any provision of the relevant scheme or the articles of government of the institution, costs incurred by the board concerned in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of any such institution shall not be met from the institution’s budget share for any financial year except in so far as the board has good reason for deducting those costs, or any part of those costs, from that share.

(5) The fact that the board has a policy precluding dismissal of its employees by reason of redundancy is not to be regarded as a good reason for the purposes of paragraph (4).

### **Application of employment law during financial delegation**

**116.**—(1) The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision—

- (a) conferring powers or imposing duties on employers;
- (b) conferring rights on employees; or
- (c) otherwise regulating the relations between employers and employees,

as it considers necessary or expedient in consequence of the operation of any of the provisions of Articles 114 and 115.

(2) Before making any order under this Article, the Department shall consult—

- (a) the boards;
- (b) such organisations representing staff in institutions of further education as appear to the Department to be concerned; and
- (c) such other persons as the Department thinks fit.