
STATUTORY INSTRUMENTS

1989 No. 2406

The Education Reform(Northern Ireland) Order 1989

PART VII

FURTHER AND HIGHER EDUCATION

Withdrawal of delegated powers

Withdrawal of delegated powers for mismanagement, etc.

117.—(1) Where it appears to a board, in the case of any institution in respect of which financial delegation is required for the current financial year under a scheme, that the governing body of the institution—

- (a) has been guilty of a substantial or persistent failure to comply with any requirements or conditions applicable under the scheme; or
- (b) is not managing the appropriation or expenditure of the sum put at its disposal for the purposes of the institution in a satisfactory manner,

the board may take any action permitted by paragraph (2).

(2) The actions so permitted are—

- (a) complete suspension of the governing body's right to a delegated budget;
- (b) the limitation of that right to part only of the budget share of the institution concerned; and
- (c) the restriction, in any manner that appears to the board to be appropriate in the circumstances, of the discretion of the governing body to spend any sum made available to it in respect of the institution's budget share or any part of it as the board thinks fit for the purposes of the institution.

(3) Subject to paragraph (5), a board shall give the governing body of any institution in respect of which it proposes to take any action permitted by paragraph (2) not less than one month's notice of the action it proposes.

(4) Any such notice shall specify the grounds for the proposed action, giving particulars of any failure alleged on the part of the governing body to comply with any requirements or conditions applicable under the scheme and of any alleged mismanagement on its part; and a copy of the notice shall be given to the Department and the principal of the institution at the same time as the notice is given to the governing body.

(5) A board may take the action to which such a notice relates before the expiry of the period of notice if it appears to the board to be necessary to do so by reason of gross incompetence or mismanagement on the part of the governing body concerned or other emergency; but in such a case the board shall immediately give to the governing body and the Department written notification of the board's action and the reasons for it.

(6) During any period when a governing body's right to a delegated budget is subject to any suspension or limitation imposed under this Article the duty of the board concerned under Article

109(2) shall not apply in relation to that governing body or (as the case may require) shall apply only in relation to such part of the budget share of the institution concerned as is not subject to the limitation.

(7) During any period when a governing body's discretion to spend the budget share of the institution concerned is subject to any restriction imposed under this Article, the power of the governing body under paragraph (5)(a) of that Article shall be subject to that restriction.

(8) In imposing any suspension, limitation or restriction under paragraph (2) in relation to the governing body of any institution to which Article 114 applies a board may also impose such suspension, limitation or restriction as appears to it to be appropriate in that connection on the powers conferred on the governing body under or by virtue of that Article or Article 115.

(9) Without prejudice to paragraph (8), in imposing any such suspension, limitation or restriction in relation to any institution a board may exclude or modify, for the period during which the suspension, limitation or restriction applies, any provision of the articles of government of the institution which appears to it to be inconsistent with the operation of the suspension, limitation or restriction.

(10) It shall be the duty of the board concerned—

- (a) to review before the beginning of every financial year any suspension, limitation or restriction under this Article which is for the time being in force;
- (b) for the purposes of that review, to afford the governing body concerned and the principal of the institution concerned an opportunity of making representations with respect to that suspension, limitation or restriction and to have regard to any representations made by the governing body or the principal; and
- (c) to revoke any such suspension, limitation or restriction where the board considers it appropriate to do so.

(11) The board shall give the governing body concerned and the principal of the institution concerned written notification of its decision on any such review.

(12) The revocation of any such suspension, limitation or restriction shall take effect as from the beginning of the next following financial year.

(13) A governing body shall be entitled to appeal to the Department against—

- (a) the imposition of any suspension, limitation or restriction under this Article; and
- (b) any refusal of a board to revoke any such suspension, limitation or restriction on any review required under this Article.

(14) On any such appeal the Department shall have regard, in making its determination, to the gravity of the default on the part of the governing body and the likelihood of its continuance or recurrence.

(15) On any such appeal the Department—

- (a) may allow or reject the appeal; and
- (b) may give such directions as it thinks fit to the board for giving effect to its determination.