
STATUTORY INSTRUMENTS

1993 No. 2810

The Education and Libraries (Northern Ireland) Order 1993

PART IV

MISCELLANEOUS

Finance

Capital grants to, and management of, maintained schools and voluntary grammar schools

28.—(1) For Article 116 of the 1986 Order there shall be substituted the following Article—

“Building and equipment grants for voluntary schools

116.—(1) Subject to paragraph (2) and to regulations made with the approval of the Department of Finance and Personnel, the Department may pay to any person in respect of approved expenditure—

(a) incurred for the provision or alteration of the premises of a voluntary school, a sum equal to—

(i) that expenditure where, when that expenditure is approved, the school is—

(A) a maintained school in relation to which an agreement under paragraph 1 of Schedule 5 is in force; or

(B) a voluntary grammar school in relation to which an agreement under paragraph 1(1)(a) of Schedule 6 is in force;

(ii) eighty-five per cent. of that expenditure where, when that expenditure is approved, the school is—

(A) a maintained school not falling within head (i)(A); or

(B) a voluntary grammar school in relation to which an agreement under paragraph 1(1)(b) of Schedule 6 is in force;

(iii) sixty-five per cent. of that expenditure in any other case;

(b) incurred for the provision of equipment provided in connection with the provision or alteration of the premises of a voluntary grammar school, a sum equal to—

(i) that expenditure where, when that expenditure is approved, an agreement under paragraph 1(1)(a) of Schedule 6 is in force in relation to the school;

(ii) eighty-five per cent. of that expenditure where, when that expenditure is approved, an agreement under paragraph 1(1)(b) of Schedule 6 is in force in relation to the school;

(iii) sixty-five per cent. of that expenditure in any other case;

(c) incurred for the provision of equipment for a voluntary school other than a maintained school or a voluntary grammar school, a sum equal to sixty-five per cent. of that expenditure.

(2) No grant shall be paid under paragraph (1)(a)(iii) to a person in respect of expenditure incurred for the provision or alteration of any premises of a voluntary grammar school other than school meals premises.

(3) In paragraph (2) “schools meals premises” means premises used, or to be used, wholly or mainly for the carrying out of arrangements approved under Article 58(5) or (6).

(4) Where a contract entered into for the provision or alteration of the premises of a school provides for payment by instalments, the date on which an instalment is paid under the contract may, for the purposes of this Article, be taken as the date on which expenditure of the amount of that instalment has been incurred.

(5) For the purposes of this Article, any question as to the date on which any expenditure was incurred or approved shall be determined by the Department.

(6) Regulations under paragraph (1) may make provision for—

- (a) the repayment in such circumstances as are prescribed of the whole or part of any grant paid under this Article;
- (b) the reduction in such circumstances as are prescribed of the amount of grant which would otherwise be payable under this Article;
- (c) the payment to the Department by such person as may be prescribed of a sum where—
 - (i) any premises of a school in respect of which the Department has, at any time after 8th. August 1978, paid a grant under paragraph (1)(a), cease to be used for approved purposes of a grant-aided school; or
 - (ii) any site in respect of which the Department has, at any time after that date, paid a grant under paragraph (1)(a), ceases, in the opinion of the Department, to be required for the purposes of a grant-aided school.

(7) Without prejudice to the generality of paragraph (6), regulations under paragraph (1) may—

- (a) provide for any repayment, reduction or payment under the regulations to be of such amount as the Department considers equitable;
- (b) provide for any such repayment, reduction or payment not to exceed such amount as may be determined under or in accordance with the regulations;
- (c) provide for any amount determined as mentioned in sub-paragraph (b) to include an amount in respect of interest calculated in such manner as may be prescribed; and
- (d) apply to grants made before as well as after the coming into operation of Article 28 of the Education and Libraries (Northern Ireland) Order 1993.”.

(2) For Article 11 of the 1986 Order (management of voluntary schools) there shall be substituted the Article set out in Part I of Schedule 2.

(3) For Schedule 5 to the 1986 Order (management of maintained schools) there shall be substituted the Schedule set out in Part II of Schedule 2.

(4) For Schedule 6 to the 1986 Order (management of certain voluntary grammar schools) there shall be substituted the Schedule set out in Part III of Schedule 2.

(5) Where an agreement under paragraph 1 of Schedule 5 to the 1986 Order or paragraph 1(1)(a) of Schedule 6 to that Order comes into force in relation to a school at any time before the expiration of 3 months from the day on which this Article comes into operation, paragraph (1) of Article 116

of that Order shall have effect, in relation to any expenditure of a description mentioned in that paragraph which is approved in connection with the school in the period beginning on 4th November 1992 and ending on the coming into force of that agreement, as if that agreement had been in force when the expenditure was approved.

(6) Paragraph (5) does not apply to expenditure incurred under, or in connection with, a contract for the provision or alteration of the premises of a school or the provision of equipment for a school if any part of the expenditure under, or in connection with, that contract was approved before 4th November 1992.

(7) Any agreement in force immediately before the coming into operation of this Article in relation to a school under Schedule 6 to the 1986 Order shall—

- (a) if made, or having effect as if made, under paragraph 1(1) of that Schedule, continue to have effect as if made under paragraph 1(1)(b) of that Schedule, as substituted by this Article;
- (b) if made, or having effect as if made, under paragraph 1(2) of that Schedule, continue to have effect as if made under paragraph 2(1) of that Schedule, as substituted by this Article.

Grants to boards and other bodies

29.—(1) In Article 113 of the 1986 Order (financial schemes of boards)—

- (a) in paragraph (1) the words “under the Education Orders” shall cease to have effect;
- (b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) For the purposes of a financial scheme under this Article in relation to any period (“the new period”), any moneys received by a board in a previous period and not spent by it before the beginning of the new period shall be treated as receipts of the board in the new period.”;

- (c) in paragraph (3) after the word “expenditure” there shall be inserted the words “in any period” and after the word “approved” shall be inserted the words “in relation to that period”.

(2) In Article 114 of the 1986 Order (grants to boards) after the word “incurred” there shall be inserted the words “or to be incurred”.

Funding by Department of higher education

30.—(1) The Department may, on such terms and conditions as it may determine, make grants—

- (a) to the governing body of any higher education institution in Northern Ireland in respect of expenditure incurred or to be incurred by it for the purposes of—
 - (i) the provision of education and the undertaking of research by that institution; or
 - (ii) the provision of any facilities, and the carrying on of any other activities, by that institution which the governing body of that institution considers it necessary or desirable to provide or carry on for the purposes of, or in connection with, education or research;
- (b) to the governing body of any other prescribed institution in respect of expenditure incurred or to be incurred by it for the purposes of the provision of prescribed higher education courses;
- (c) to any body or person in respect of expenditure incurred or to be incurred by that body or person for the purposes of the provision of services for the purposes of, or in connection with, the provision of education and the undertaking of research by higher education institutions in Northern Ireland.

(2) For the purposes of the exercise of its functions under this Article, the Department may obtain such advice and other services as it considers necessary or desirable from any other body or person on such terms and conditions as may be agreed between the Department and that other body or person.

(3) In this Article—

“governing body”, in relation to an institution means—

- (a) in the case of a university, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs;
- (b) in the case of an institution of further education, the governing body constituted under Part VII of the 1989 Order;
- (c) in the case of any other institution, the body which has responsibility for the conduct of its affairs;

“higher education course” means a course of a description for the time being mentioned in Schedule 7 to the 1989 Order;

“higher education institution” means—

- (a) a university; and
- (b) any other institution which provides higher education courses and is designated by regulations as a higher education institution for the purposes of this Article;

and references to a higher education institution in Northern Ireland include references to the Open University;

“university” includes a university college and any college, or institution in the nature of a college, in a university.

(4) Regulations under this Article shall be subject to negative resolution.

Premature retirement compensation costs

31.—(1) After Article 53 of the 1989 Order there shall be inserted the following Article—

“Premature retirement compensation costs

53A.—(1) This Article applies in any financial year if—

- (a) in the case of any board, the board’s financial provision for relevant schools is subject to regulation by a scheme; and
- (b) in accordance with that scheme, premature retirement compensation costs of the board in relation to members of the staff of relevant schools are not included in the board’s aggregated budget for that year.

(2) Premature retirement compensation costs of a board in relation to a member of the staff of a relevant school shall not be met from the budget share of that school, except in pursuance of, and in accordance with the terms of, a direction under paragraph (3).

(3) Where there appears to a board to be good reason to do so in relation to any school, the board may direct that—

- (a) a specified amount shall be deducted from the budget share of the school in any single specified financial year; or
- (b) a specified amount shall be deducted from the budget share of the school in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the board in relation to a member of the staff of the school.

(4) In paragraph (3) “specified” means specified in directions under that paragraph.

(5) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount to be deducted from the budget share of a school in pursuance of a direction given under paragraph (3) in relation to a member of the staff of a school shall not exceed such amount as appears to the board to represent the cost, capitalised as of the date on which the direction is given, of discharging the board’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(6) Where in pursuance of a direction under paragraph (3) an amount falls to be deducted from a school’s budget share at a time when the school does not have a delegated budget, that amount shall not be deducted from any sum made available out of that budget to the Board of Governors under Article 51.

(7) Sub-paragraph (5) of paragraph 7 of Schedule 4 applies for the purposes of paragraph (3) of this Article as it applies for the purposes of sub-paragraph (4) of that paragraph.

(8) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(1);

“premature retirement compensation costs of a board”, in relation to any person, means the costs incurred or to be incurred by the board in paying premature retirement compensation to, or in respect of, that person.”.

(2) In Article 60 of the 1989 Order at the beginning of paragraph (3) there shall be inserted the words “Subject to paragraph (7A),” and after paragraph (7) there shall be inserted the following paragraphs—

“(7A) An amount may, in pursuance of, and in accordance with the terms of, a direction under paragraph (7B), be deducted from the amount of any grant to be paid under this Article to the Board of Governors of any school.

(7B) Where there appears to the Department to be good reason to do so in relation to any school, the Department may direct that—

(a) a specified amount shall be deducted from the amount of any grant to be paid under this Article to the Board of Governors of the school in any single specified financial year; or

(b) a specified amount shall be deducted from the amount of any such grant to be so paid in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to a member of the staff of the school.

(7C) In paragraph (7B) “specified” means specified in directions under that paragraph.

(7D) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount to be deducted in pursuance of a direction given under paragraph (7B) in relation to a member of the staff of a school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(7E) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(2);

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.”.

(3) In Article 77 of the 1989 Order at the beginning of paragraph (2) there shall be inserted the words “Subject to paragraph (7),” and for paragraph (7) there shall be substituted the following paragraphs—

“(7) An amount may, in pursuance of, and in accordance with the terms of, a direction under paragraph (7A), be deducted from the amount of any maintenance grant to be paid under this Article to the Board of Governors of any school.

(7A) Where there appears to the Department to be good reason to do so in relation to any school, the Department may direct that—

- (a) a specified amount shall be deducted from the amount of any maintenance grant to be paid under this Article to the Board of Governors of the school in any single specified financial year; or
- (b) a specified amount shall be deducted from the amount of any maintenance grant to be so paid in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to a member of the staff of the school.

(7B) In paragraph (7A) “specified” means specified in directions under that paragraph.

(7C) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount to be deducted in pursuance of a direction given under paragraph (7A) in relation to a member of the staff of a school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(7D) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(3);

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.”.

(4) After Article 115 of the 1989 Order there shall be inserted the following Article—

“Premature retirement compensation costs

115A.—(1) This Article applies in any financial year if—

- (a) in the case of any board, the board’s financial provision for institutions of further education under its management is subject to regulation by a scheme; and

(2) SR 1991 No. 132
(3) SR 1991 No. 132

(b) amounts to meet premature retirement compensation costs of the board in relation to members of the staff of such institutions are not appropriated by the board for allocation in accordance with that scheme among institutions covered by the scheme.

(2) Premature retirement compensation costs of a board in relation to a member of the staff of an institution of further education covered by the scheme shall not be met from the budget share of that institution, except in pursuance of, and in accordance with the terms of, a direction under paragraph (3).

(3) Where there appears to a board to be good reason to do so in relation to any institution of further education, the board may direct that—

(a) a specified amount shall be deducted from the budget share of the institution in any single specified financial year; or

(b) a specified amount shall be deducted from the budget share of the institution in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the board in relation to a member of the staff of the institution.

(4) In paragraph (3) “specified” means specified in directions under that paragraph.

(5) The amount or (in a case falling within sub-paragraph (b) of that paragraph), the total amount to be deducted from the budget share of an institution of further education in pursuance of a direction given under paragraph (3) in relation to a member of the staff of an institution shall not exceed such amount as appears to the board to represent the cost, capitalised as of the date on which the direction is given, of discharging the board’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(6) The fact that a 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 (3).

(7) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(4);

“premature retirement compensation costs of the board”, in relation to any person, means the costs incurred or to be incurred by the board in paying premature retirement compensation to, or in respect of, that person.”.

(5) After Article 119 of the 1986 Order there shall be inserted the following Article—

“Recovery by Department of certain premature retirement compensation costs

119A.—(1) Where the Department becomes liable to pay premature retirement compensation in relation to a member of the staff of a special school, the Department may, where there appears to the Department to be good reason to do so, direct that—

(a) a specified amount shall be charged to the responsible board in any single specified financial year; or

(b) a specified amount shall be charged to the responsible board in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that member of staff.

(2) In paragraph (1)—

“responsible board” means—

- (a) in relation to a member of the staff of a controlled school, the board responsible for the management of the school;
- (b) in relation to a member of the staff of a maintained school, the board by which the school is maintained;

“specified” means specified in directions under that paragraph.

(3) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount charged to a board in pursuance of a direction given under paragraph (1) in relation to a member of the staff of a special school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(4) Where a board becomes liable to pay premature retirement compensation in relation to a member of the staff of—

- (a) a controlled school which does not have a delegated budget under Part V of the 1989 Order; or
- (b) an institution of further education which does not have a delegated budget under Part VII of that Order,

the Department may, where there appears to the Department to be good reason to do so, direct that—

- (i) a specified amount shall be charged to that board in any single specified financial year; or
- (ii) a specified amount shall be charged to the board in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the board in relation to that member of staff.

(5) In paragraph (4) “specified” means specified in directions under that paragraph.

(6) For the purposes of paragraph (4)—

- (a) a controlled school does not have a delegated budget during any period when the right of the Board of Governors of that school to such a budget is suspended under Article 53 of the 1989 Order;
- (b) an institution of further education does not have a delegated budget during any period when the right of the governing body of that institution to such a budget is subject to any suspension, limitation or restriction under Article 117 of that Order.

(7) The amount or (in a case falling within sub-paragraph (ii) of that paragraph) the total amount charged to a board in pursuance of a direction given under paragraph (4) in relation to a member of the staff of a school or institution of further education shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the board’s liability to pay premature retirement compensation to, or in respect of, that member of staff.

(8) Where the Department becomes liable to pay premature retirement compensation in relation to a person employed otherwise than at a grant-aided school or institution of further education, the Department may, where there appears to the Department to be good reason to do so, direct that—

- (a) a specified amount shall be charged to the employer of that person in any single specified financial year; or
- (b) a specified amount shall be charged to the employer of that person in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that employee.

(9) In paragraph (8) “specified” means specified in directions under that paragraph.

(10) The amount or (in a case falling within sub-paragraph (b) of that paragraph), the total amount charged to an employer in pursuance of a direction given under paragraph (8) in relation to an employee shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department’s liability to pay premature retirement compensation to, or in respect of, that employee.

(11) Any amount charged by the Department to a board or an employer under this Article in any financial year shall be payable by the board or employer to the Department at such time or times and in such manner as the Department may direct.

(12) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991⁽⁵⁾;

“premature retirement compensation costs of the board”, in relation to any person, means the costs incurred or to be incurred by the board in paying premature retirement compensation to, or in respect of, that person;

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.”.