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STATUTORY INSTRUMENTS

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**1998 No. 1759**

**Education (Northern Ireland) Order 1998**

**PART VII**

**FINANCING OF SCHOOLS**

**CHAPTER I**

**FINANCING OF SCHOOLS BY BOARDS**

*Financial delegation in respect of controlled and maintained schools*

**Provision by a scheme for financial delegation**

**52.**—(1) A scheme shall include provision for requiring, in the case of each controlled or maintained school required to be covered in any financial year by the scheme, the delegation by the board to the Board of Governors of the school of the management of the school's budget share for that year.

(2) Any provision included in a scheme by virtue of paragraph (1) is referred to in this Chapter as the "delegation requirement" under the scheme.

(3) Where a new controlled or maintained school is established and is required to be covered by a scheme, then if apart from this paragraph the delegation requirement would apply in relation to that school, that requirement shall not apply in relation to the school until such date as may be specified in the scheme in relation to the school.

(4) In the following provisions of this Chapter—

- (a) references to a school in respect of which financial delegation is required for a financial year under a scheme are to a controlled or maintained school managed by a Board of Governors to which the board is for the time being required by or under the scheme to delegate the management of the school's budget share for the year (and the Board of Governors of such a school is said to have a right to a delegated budget for the year); and
- (b) references to a school which has a delegated budget are to a controlled or maintained school managed by a Board of Governors to which a board has for the time being delegated the management of the school's budget share for a financial year in pursuance of a scheme.

**Conditions as to delegation**

**53.** Any delegation under a scheme of the management of a school's budget share shall be subject to such conditions—

- (a) as may be imposed by the scheme; or
- (b) as may be imposed under the scheme by the board with the approval of the Department.

### **Effect of financial delegation**

**54.**—(1) This Article applies where a board’s financial provision for relevant schools is subject to regulation by a scheme.

(2) In the case of any controlled or maintained school in respect of which financial delegation is required for a financial year under the scheme, the board shall put at the disposal of the Board of Governors in respect of the year a sum equal to the school’s budget share for the year, to be spent for the purposes of the school.

(3) The times at which, and the manner in which, any such sum is put at the disposal of the Board of Governors shall be such as may be provided by or under the scheme.

(4) A board may not delegate to the Board of Governors of any controlled or maintained school required to be covered by the scheme in a financial year the power to spend any appropriated amount otherwise than as required under the scheme; and for this purpose “appropriated amount” means a sum appropriated by the board for the purposes of the school in that year.

(5) The Board of Governors of a school which has a delegated budget—

(a) shall be entitled, subject to any provision made by or under the scheme, to spend any sum made available to it in respect of the school’s budget share for a financial year as it thinks fit for the purposes of the school; and

(b) may delegate to the principal, to such extent as may be permitted by or under the scheme, its power under sub-paragraph

(a) in relation to any part of that sum.

(6) The members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under paragraph (5).

### **Suspension of financial delegation for mismanagement, etc.**

**55.**—(1) Where it appears to the board, in the case of any school in respect of which financial delegation is required for the current financial year under a scheme, that the Board of Governors of the school—

(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 school in a satisfactory manner, the board may suspend the Board of Governors’ right to a delegated budget by giving the Board of Governors (subject to paragraph (4)) not less than one month’s notice of suspension.

(2) Any notice under paragraph (1) shall specify the grounds for the proposed suspension, giving particulars of any alleged failure on the part of the Board of Governors to comply with any requirements or conditions applicable under the scheme and of any alleged mismanagement on its part.

(3) A copy of the notice shall be given to—

(a) the principal of the school;

(b) the Department; and

(c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools, at the same time as the notice is given to the Board of Governors.

(4) A board may suspend the right mentioned in paragraph (1) of any Board of Governors to which it has given notice under that paragraph 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 Board of Governors or other emergency.

(5) A board may withdraw a notice given under paragraph (1) at any time before the expiry of the period of notice.

(6) If the board exercises its power under paragraph (4) or (5), it shall immediately give written notification of its action and, in the case of action under paragraph (4), of the reasons for it to—

- (a) the Board of Governors and principal of the school;
- (b) the Department; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

(7) During any period when a Board of Governors' right to a delegated budget is suspended under this Article, the duty of the board under Article 54(2) shall not apply in relation to that Board of Governors.

### **Review of suspension**

**56.**—(1) It shall be the duty of the board concerned—

- (a) to review before the beginning of every financial year any suspension under Article 55 which is for the time being in force;
- (b) for the purposes of that review, to afford—
  - (i) the Board of Governors of the school concerned;
  - (ii) the principal of the school concerned; and
  - (iii) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools, an opportunity for making representations with respect to the suspension and to have regard to any representations made by the Board of Governors, the principal or that Council;
- (c) to revoke any such suspension where the board considers it appropriate to do so.

(2) The board shall give—

- (a) the Board of Governors concerned;
- (b) the principal of the school concerned;
- (c) the Department; and
- (d) where that school is a Catholic maintained school, the Council for Catholic Maintained Schools, written notification of its decision on any such review.

(3) The revocation of a suspension on a review under this Article shall take effect as from the beginning of the financial year next following the review.

### **Appeal against suspension or refusal to revoke it**

**57.**—(1) A Board of Governors shall be entitled to appeal to the Department against—

- (a) the imposition of any suspension under Article 55; or
- (b) any refusal of a board to revoke any such suspension on a review under Article 56.

(2) On an appeal under this Article, the Department—

- (a) may allow or reject the appeal; and
- (b) shall have regard, in making its determination, to the gravity of the default on the part of the Board of Governors and the likelihood of its continuing or recurring.

**Financial delegation: staff**

**58.**—(1) The following matters in relation to staff at controlled and maintained schools with delegated budgets, namely—

- (a) the determination of staff complements;
- (b) the regulation of conduct and discipline of staff;
- (c) the suspension and dismissal of staff; and
- (d) the making of payments in respect of dismissals or resignations of staff, shall be subject to Schedule 2.

(2) A scheme may provide for applying this Article and Schedule 2 in relation to persons employed to work—

- (a) partly for the purposes of school activities and partly for the purposes of non-school activities (that is to say, activities, other than school activities, carried on on the school premises and wholly or mainly under the management or control of the Board of Governors of the school); or
- (b) solely for the purposes of non-school activities, as if all such activities were school activities.