

SCHEDULES

SCHEDULE 2

Article 58.

PROVISIONS RELATING TO THE STAFF OF CONTROLLED AND MAINTAINED SCHOOLS WITH DELEGATED BUDGETS

Application of this Schedule

1.—(1) Subject to sub-paragraph (2), this Schedule applies to a controlled or maintained school at any time when it has a delegated budget.

(2) Paragraphs 3 to 6 do not apply to teaching staff in a maintained school other than a Catholic maintained school.

(3) In the application of paragraph 7 to teaching staff in a maintained school, other than a Catholic maintained school, sub-paragraph (5) shall be omitted.

Determination of staff complement

2. Every school to which this Schedule for the time being applies shall have a complement of teaching and non-teaching posts determined by the Board of Governors of the school.

Discipline

3.—(1) The regulation of conduct and discipline in relation to the staff of any school to which this Schedule 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 Board of Governors.

(2) The Board of Governors of any such school shall, after consultation with the employing authority, establish—

- (a) disciplinary rules and procedures; and
- (b) procedures such as are mentioned in sub-paragraph (1), and shall take such steps as appear to it to be appropriate for making them known to the staff at the school.

(3) Where the implementation of any determination made by the Board of Governors in the exercise of its control over the conduct and discipline of the staff of any such school requires any action which—

- (a) is not within the functions exercisable by the Board of Governors by virtue of the Education Orders; and
- (b) is within the power of the employing authority, it shall be the duty of the employing authority to take that action at the request of the Board of Governors.

Suspension

4.—(1) In the case of any school to which this Schedule for the time being applies, the Board of Governors and the principal shall both have power to suspend any person employed to work at

Status: This is the original version (as it was originally made).

the school where, in the opinion of the Board of Governors or (as the case may be) of the principal, his exclusion from the school is required.

(2) The Board of Governors or principal, when exercising that power, shall immediately inform the employing authority and the principal or (as the case may be) the Board of Governors.

(3) Any suspension under this paragraph may only be ended by the Board of Governors; and the Board of Governors shall, on ending such a suspension, immediately inform the employing authority and the principal.

(4) In this paragraph “suspend” means suspend without loss of emoluments.

Dismissal, etc.

5.—(1) Where the Board of Governors of any school to which this Schedule for the time being applies determines that any person employed to work at the school under a particular contract of employment should cease to work there under that contract, it shall notify the employing authority in writing of its determination and the reasons for it.

(2) If in a case within sub-paragraph (1)—

(a) the person concerned is employed under the contract of employment in question to work solely at the school; and

(b) he does not resign, the employing authority shall, before the end of the period of one month beginning with the date on which the notification under sub-paragraph (1) is given in relation to him, either give him such notice terminating that contract with the employing authority as is required under that contract or terminate that contract without notice if the circumstances are such that it is entitled to so do by reason of his conduct.

(3) If in a case within sub-paragraph (1) the person concerned is not employed under the contract of employment in question to work solely at the school the employing authority shall require him to cease to work at the school.

(4) In any case within sub-paragraph (3) no part of the costs incurred by a board in respect of the emoluments of the person concerned under the contract of employment in question, so far as relates to any period falling after the expiration of his contractual notice period, shall be met from the school’s budget share.

(5) In relation to any such person, the reference in sub-paragraph (4) to his contractual notice period is a reference to the period of notice that would have been given under the contract of employment in question for termination of that contract if such notice had been given on the date on which the notification under sub-paragraph (1) was given in relation to him.

(6) The Board of Governors of such a school shall make arrangements for affording to any person in respect of whom it proposes to make any determination under sub-paragraph (1) an opportunity of making representations with respect to the action it proposes to take, including (if he so wishes) oral representations to such person or persons as the Board of Governors may appoint for the purpose, and shall have regard to any representation made by him.

(7) The Board of Governors of such a school shall also make arrangements for affording to any person in respect of whom it has made such a determination an opportunity of appealing against it before it notifies the employing authority of the determination.

(8) The relevant officer of the employing authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to any determination under sub-paragraph (1) and the Board of Governors shall consider any advice given by a person entitled to attend such proceedings under this sub-paragraph before making any such determination.

6.—(1) Subject to sub-paragraph (2), the employing authority shall not dismiss a person employed by it to work solely at a school to which this Schedule for the time being applies except as provided by paragraph 5.

(2) Sub-paragraph (1) shall not apply in any case where the dismissal of the person in question is required to comply with—

- (a) Article 35(3); or
- (b) any regulations made under Article 88A of the 1986 Order.

Payments in respect of dismissals, resignations, etc.

7.—(1) Subject to sub-paragraph (2), it shall be for the Board of Governors of any school to which this Schedule for the time being applies to determine—

- (a) whether any payment should be made by the relevant board in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and
- (b) the amount of any such payment.

(2) Sub-paragraph (1) does not apply in relation to any payment which is required or authorised to be made—

- (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 relevant board—

- (a) shall take such steps as may be required for giving effect to any determination of the Board of Governors of any such school under sub-paragraph (1); and
- (b) shall not make, or agree to make, any payment to which that sub-paragraph applies in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of any such school otherwise than in accordance with any such determination.

(4) Costs incurred by the relevant board in giving effect to any determination under sub-paragraph (1) in respect of any member of the staff of any such school shall not be met from the school'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 employing authority 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 sub-paragraph (4).

(6) In this paragraph “the relevant 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.

School meals staff

8. Nothing in paragraphs 2 to 7 shall apply in relation to a person employed to work at a school to which this Schedule for the time being applies, where—

- (a) the person concerned is to be, or is, employed to work solely in connection with the provision of a school's meals service; and
- (b) no allowance is made for expenditure on or in connection with the provision of such a service in determining the school's budget share.

Status: This is the original version (as it was originally made).

Application of employment law

- 9.**—(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 this Schedule.
- (2) Before making any order under this paragraph, the Department shall consult—
- (a) the boards;
 - (b) the Council for Catholic Maintained Schools;
 - (c) the Boards of Governors of maintained schools (other than Catholic maintained schools) or any body representing their interests;
 - (d) such organisations representing staff in controlled and maintained schools as appear to the Department to be concerned; and
 - (e) such other persons as the Department thinks fit.

Interpretation

- 10.**—(1) In this Schedule “employing authority” means—
- (a) in relation to teachers and other staff in a controlled school, the board responsible for the management of the school;
 - (b) in relation to teachers in a Catholic maintained school, the Council for Catholic Maintained Schools;
 - (c) in relation to other staff in a Catholic maintained school, the board by which the school is maintained; and
 - (d) in relation to staff other than teachers in a maintained school other than a Catholic maintained school, the board by which the school is maintained.
- (2) In paragraph 5(8) “the relevant officer” of the employing authority means—
- (a) where the employing authority is a board, the chief education officer of the board or another officer of the board nominated by him;
 - (b) where the employing authority is the Council for Catholic Maintained Schools, the chief executive of the Council or another officer of the Council nominated by him.