

**EDUCATION AND LIBRARIES  
(NORTHERN IRELAND) ORDER 2003**

**S.I. 2003 No. 424 (N.I. 12)**

---

**EXPLANATORY MEMORANDUM**

**THE PROVISIONS OF THE ORDER**

9. The main provisions of the Order are outlined below. Where an Article is straightforward, no comment has been included.

**Part ii: Funding of Grant-Aided Schools**

***Article 3 - The common funding scheme for grant-aided schools***

*Article 3* provides for one common funding scheme for all grant-aided schools in Northern Ireland. The Department will have an overall duty to prepare and publish the common funding scheme after consultation with the Education and Library Boards (ELBs), the Council for Catholic Maintained Schools (CCMS) and such other bodies as it sees fit. The Article also places a duty on all ELBs to implement the common funding scheme.

***Article 4 - Contents of the common funding scheme***

*Article 4* sets out what the common funding scheme is to cover, including details of the common funding formula to be applied in calculating the budget allocation to each relevant school. The Article also allows for a school's budget allocation to be revised in-year and for a common funding scheme to be applied to new schools.

***Article 5 - Conditions as to financial delegation***

*Article 5* provides the power for ELBs to set separate delegation conditions, from the common funding scheme and for the Department to issue guidance on these conditions. It also provides for the common scheme to detail restrictions on the Board of Governors.

***Article 6 - Effect of financial delegation***

*Article 6* provides for the common funding scheme to detail the arrangements for schools having the management of their budget allocation delegated to their Board of Governors by the ELB. It also ensures that members of a Board of Governors of a school will not incur any personal liability in respect of any action taken in good faith in the exercise or purported exercise of their delegated powers under the common funding scheme.

**Part iii: Boards: Finance and the Duty of Best Value**

***Article 10 – Resource allocation plans***

***Article 11 – Funding of boards***

***Article 12 – Accounts of boards***

These amendments are made in recognition of the move to resource accounting and budgeting and the fact that the ELBs are now funded by three Departments.

***Article 13 – The duty of best value***

*Article 13* places a duty on ELBs to deliver Best Value in the execution of their services and to consult interested parties on how this should be done.

***Article 14 – Contracts: exclusion of non-commercial considerations***

*Article 14* allows the Department to amend Article 20 of the Education and Libraries (Northern Ireland) Order 1993 which requires that an ELB does not take into account non-commercial matters when conducting a tender process for the supply of goods, materials or services to the ELB.

***Article 16 – Repeal of competition provisions***

*Article 16* repeals Part II of, and Schedule 1 to, the Education and Libraries (Northern Ireland) Order 1993 which had placed certain compulsory competitive tendering requirements on ELBs in executing some of their activities.

**Part Iv: Schools**

***Article 17 - Duty on Boards of Governors to safeguard and promote the welfare of pupils***

***Article 18 – Child protection measures***

These amendments impose a duty on the Board of Governors of all grant-aided schools to safeguard and promote the welfare of registered pupils while in the care of the school and to have a written child protection policy.

***Article 19 - School discipline measures to prevent bullying***

*Article 19* amends Article 3 of the Education (Northern Ireland) Order 1998 on schools' discipline policies to require that prevention of bullying be specifically addressed and to ensure consultation with pupils.

***Article 20 – Admission appeals: tribunal procedures and expenses***

*Article 20* allows for the provision in regulations for Independent Appeals Tribunals to continue to be heard in private.

***Article 21 – Parental preferences for admission to nursery schools***

*Article 21* substitutes new paragraphs (1) and (2) for those in Article 23 of the Education (Northern Ireland) Order 1998 to provide for parents to express on a single application form, in order of preference, the schools in which they wish pre-school education to be provided for their child.

***Article 22 - Admission to special schools of children resident outside Northern Ireland***

*Article 22* empowers an ELB to make arrangements for the admission of a child with special educational needs, from outside Northern Ireland, to a vacant place in a special school within its area and to charge for the place.

***Article 23 – Removal of members of Boards of Governors***

*Article 23* gives the Department power to make regulations to remove from office all the voting and co-opted members of the Board of Governors of a school. This is designed to address weaknesses in the management of the school and is expected to be used only on rare occasions.

***Article 24 - Development proposals for grant-aided schools***

*Article 24* substitutes new paragraphs for the existing paragraph (5) of Article 14 of the Education and Libraries (Northern Ireland) Order 1986 to impose an additional duty on a proposer of a development proposal to consult at an early stage with the Boards of Governors, teaching staff and parents of the relevant schools.

***Article 27 – Consultation of schools by sampling***

*Article 27* amends Article 31 of the Education Reform (Northern Ireland) Order 1989 and Article 11 of the Education (Northern Ireland) Order 1998 to enable the Department to consult a sample

*This Explanatory Memorandum refers to the Education and Libraries (Northern Ireland) Order 2003No. 424 (N.I. 12)*

of schools, instead of all schools likely to be affected, before making regulations relating to the provision of information about pupil performance and the setting of performance targets by schools.

***Article 28 - Costs under approved contracts***

*Article 28* provides for a relevant authority entering into a Public Private Partnership (PPP) contract, with the power to make payments for legitimate contractual costs at any point during, or after, the end of the contract term.

**Part V: Miscellaneous and Supplementary**

***Article 29 - Determination of travelling and subsistence allowances***

***Article 30 – Officers of boards***

***Article 32 – Programme of training by boards***

These amendments to existing legislation provide for greater delegation of authority from the Department to ELBs on determination of travel and subsistence allowances, appointment of officers and compilation of training programmes.

***Article 31 - Principals on teaching appointments committee***

*Article 31* modifies Part 1 of Schedule 3 to the Education and Libraries (Northern Ireland) Order 1986 to enable an ELB to appoint one or two principals, from another ELB's panel, to its Teaching Appointments Committee, where it is not possible to do so from its own panel.

***Article 33 – Terms of appointment of members of the Council for Catholic Maintained Schools***

*Article 33* removes the provision in paragraph 5 of Schedule 8 to the Education Reform (Northern Ireland) Order 1989 for certain members of CCMS to be appointed at a different time from the other members.

***Article 34 - Provision of secondary education for pupils by institutions of further education***

*Article 34 and paragraph 7 of Schedule 2*, extends the opportunity to have educational provision made in an institution of further education, to pupils who are over the age of 14 and not on the register of a school, for example pupils who have been expelled.

***Article 35 - The General Teaching Council for Northern Ireland: fees and procedures***

*Article 35* amends certain powers in Chapter 1 of Part VI of the Education (Northern Ireland) Order 1998 regarding exemptions to the employment of unregistered teachers, regulations on the removal of teachers from the register and the determination of fees chargeable.

***Article 36 - Abolition of corporal punishment***

*Article 36* consolidates existing legislation on corporal punishment and effectively extends the abolition to independent schools. This change is required to ensure compliance with a judgement of the European Court of Human Rights.

***Article 37 – Reports and returns***

*Article 37* provides for specified bodies to give reports and returns and provide information to DE, DCAL and DEL and to ELBs, as the Departments and ELBs may reasonably require for the purposes of their functions under any statutory provision and not just under the Education Orders as at present.