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STATUTORY INSTRUMENTS

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**2003 No. 424**

**The Education and Libraries (Northern Ireland) Order 2003**

**PART III**

**BOARDS: FINANCE AND THE DUTY OF BEST VALUE**

*Financing of boards*

**Resource allocation plans**

**10.**—(1) In respect of each financial year, a board shall prepare, and submit to each of the funding departments, a resource allocation plan which sets out the estimated use of resources by the board in that year in respect of the relevant functions of the board.

(2) The plan submitted to a funding department under paragraph (1) shall—

- (a) be in such form as that department may approve; and
- (b) contain such other information in connection with the exercise, or proposed exercise, by the board of relevant functions as that department may direct.

(3) A funding department may approve a plan submitted to it under paragraph (1) with or without modifications.

(4) A board may, with the approval of a funding department, at any time submit a revised resource allocation plan to that department, and that department may approve the revised plan with or without modifications.

(5) Resources shall not be used by a board otherwise than in accordance with a plan (or revised plan) approved under this Article.

(6) For the purposes of this Order and the Education Orders “the funding departments” are—

- (a) the Department;
- (b) the Department of Culture Arts and Leisure; and
- (c) the Department for Employment and Learning.

(7) For the purposes of this Article “relevant functions” means—

- (a) in relation to a plan submitted to the Department of Culture, Arts and Leisure, functions of the board under—
  - (i) Article 37 of the 1986 Order, so far as relating to cultural and recreational activities; and
  - (ii) Part VII of the 1986 Order;
- (b) in relation to a plan submitted to the Department for Employment and Learning, functions of the board under—
  - (i) Article 50 of the 1986 Order;

- (ii) Article 52 or 60 of that Order, so far as relating to pupils attending institutions of further education; and
  - (iii) the [Further Education \(Northern Ireland\) Order 1997 \(NI 15\)](#);
  - (c) in relation to a plan submitted to the Department, all other functions of the board.
- (8) In this Article a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

### **Funding of boards**

**11.**—(1) The Department of Culture, Arts and Leisure may from time to time pay to a board such amounts as that department thinks necessary to enable the board to meet expenditure incurred, or to be incurred, by the board in the exercise of its functions under—

- (a) Article 37 of the 1986 Order, so far as relating to cultural and recreational activities; and
- (b) Part VII of the 1986 Order.

(2) The Department for Employment and Learning may from time to time pay to a board such amounts as that department thinks necessary to enable the board to meet expenditure incurred, or to be incurred, by the board in the exercise of its functions under—

- (a) Article 50 of the 1986 Order;
- (b) Article 52 or 60 of that Order, so far as relating to pupils attending institutions of further education; and
- (c) the [Further Education \(Northern Ireland\) Order 1997 \(NI 15\)](#).

(3) The Department may from time to time pay to a board such amounts as the Department thinks necessary to enable the board to meet expenditure incurred, or to be incurred, by the board in the exercise of any of its functions, other than those mentioned in paragraphs (1) and (2).

### **Accounts of boards**

**12.**—(1) A board shall keep accounts in such form as the Department may direct.

(2) A board shall prepare a statement of accounts in respect of each financial year in such form and containing such information as the Department, with the approval of the Department of Finance and Personnel, may direct.

(3) A board shall send copies of the statement of accounts to each of the funding departments and the Comptroller and Auditor General for Northern Ireland by such date as the Department may direct.

(4) The Comptroller and Auditor General shall—

- (a) examine, certify and report on the statement of accounts; and
- (b) send a copy of his report to the board and to each of the funding departments.

(5) The annual report of a board laid before the Assembly under Article 38 shall include—

- (a) the statement of accounts of the board for that year; and
- (b) the report of the Comptroller and Auditor General thereon.

(6) In the discharge of his functions under this Article, the Comptroller and Auditor General—

- (a) shall have right of access to the books, accounts and records of the funding departments and the boards; and
- (b) may require from any member or officer (or former member or officer) of a board such information relating to the affairs of the board as he may consider necessary for the proper discharge of those functions.

(7) Before issuing directions under this Article the Department shall consult the other funding departments.

### *The duty of best value*

#### **The duty of best value**

**13.—**(1) A board shall make arrangements for continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(2) For the purpose of deciding how to carry out its duty under paragraph (1), a board shall consult persons appearing to the board to be representative of persons who use, are likely to use, or otherwise have an interest in, services provided by the board in pursuance of its functions.

#### **Contracts: exclusion of non-commercial considerations**

**14.—**(1) The Department may by order provide, in relation to boards, for a specified matter to cease to be a non-commercial matter for the purposes of Article 20 of the [Education and Libraries \(Northern Ireland\) Order 1993 \(NI 12\)](#) (board contracts: exclusion of non-commercial considerations).

(2) An order under this Article may—

- (a) provide for a matter to cease to be a non-commercial matter for specified purposes or to a specified extent;
- (b) apply in relation to specified boards, functions or contracts;
- (c) amend a statutory provision;
- (d) include supplementary, incidental, consequential and transitional provisions

(3) In exercising a function regulated by Article 20 of the [Education and Libraries \(Northern Ireland\) Order 1993 \(NI 12\)](#) with reference to a matter which is the subject of an order under this Article a board shall have regard to any guidance issued by the Department.

(4) Before the Department—

- (a) makes an order under this Article; or
- (b) issues any guidance under paragraph (3),

it shall consult the other funding departments.

(5) No order shall be made under this Article unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

#### **Power to modify statutory provisions and confer new powers**

**15.—**(1) If the Department thinks that a statutory provision prevents or obstructs compliance by boards with the duty under Article 13(1), the Department may by order make provision modifying or excluding the application of the provision in relation to boards.

(2) The Department may by order make provision conferring on boards any power which the Department thinks necessary or expedient to permit or facilitate compliance with the duty under Article 13(1).

(3) In exercising a power conferred under paragraph (2) a board shall have regard to any guidance issued by the Department after consultation with the other funding departments.

(4) An order under this Article may—

- (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
  - (b) amend a statutory provision;
  - (c) include supplementary, incidental, consequential and transitional provisions.
- (5) No order shall be made under this Article unless a draft has been laid before, and approved by resolution of, the Assembly
- (6) Before the Department makes an order under this Article it shall consult—
- (a) the other funding departments;
  - (b) the boards; and
  - (c) such other persons as appear to the Department to be representative of interests affected by the proposals.
- (7) If, following consultation under paragraph (6), the Department proposes to make an order under this Article it shall lay before the Assembly a document explaining the proposals and, in particular—
- (a) setting them out in the form of a draft order; and
  - (b) giving details of consultation under paragraph (6).
- (8) Where a document relating to proposals is laid before the Assembly under paragraph (7), no draft of an order under this Article to give effect to the proposals (with or without modification) shall be laid before the Assembly until after the expiry of the statutory period beginning with the day on which the document was laid.
- (9) In preparing a draft order under this Article the Department shall consider any representations made during the period mentioned in paragraph (8).
- (10) A draft order laid before the Assembly in accordance with paragraph (5) must be accompanied by a statement of the Department giving details of—
- (a) any representations considered in accordance with paragraph (9); and
  - (b) any changes made to the proposals contained in the document laid before the Assembly under paragraph (7).

### **Repeal of competition provisions**

**16.** Part II of, and Schedule 1 to, the [Education and Libraries \(Northern Ireland\) Order 1993 \(NI 12\)](#) (competition) shall cease to have effect.