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*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: The Special Educational Needs and Disability (Northern Ireland) Order 2005, Cross Heading: Education in ordinary schools is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## STATUTORY INSTRUMENTS

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# 2005 No. 1117

## The Special Educational Needs and Disability (Northern Ireland) Order 2005

### PART II

#### SPECIAL EDUCATIONAL NEEDS

##### *Education in ordinary schools*

#### **Education in ordinary schools of children with special educational needs**

3.—(1) In the 1996 Order for Article 7 substitute—

##### **“Duty to educate children with special educational needs in ordinary schools**

7.—(1) This Article applies to a child with special educational needs who should be educated in a grant-aided school.

(2) If no statement is maintained under Article 16 for the child, he shall be educated in an ordinary school.

(3) If a statement is maintained under Article 16 for the child, he shall be educated in an ordinary school unless that is incompatible with—

- (a) the wishes of his parent, or
- (b) the provision of efficient education for other children.

##### **Education otherwise than in ordinary schools**

7A.—(1) Article 7(2) does not require a child to be educated in an ordinary school during any period in which—

- (a) he is admitted to a special school for the purposes of an assessment under Article 15 of his educational needs and his admission to that school is with the agreement of—
  - (i) the board;
  - (ii) the Board of Governors of the school;
  - (iii) his parent; and
  - (iv) any person whose advice is to be sought in accordance with regulations made under paragraph 2 of Schedule 1;
- (b) he remains admitted to a special school, in prescribed circumstances, following an assessment under Article 15 at that school;
- (c) he is admitted to a special school, following a change in his circumstances, with the agreement of—
  - (i) the board;

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- (ii) the Board of Governors of the school; and
- (iii) his parent.

(2) Article 7 does not affect the operation of—

- (a) Article 10; or
- (b) paragraph 5 of Schedule 2.

(3) If a board decides—

- (a) to make a statement for a child under Article 16, but
- (b) not to name in the statement the school for which a parent has expressed a preference under paragraph 5 of Schedule 2,

it shall, in making the statement, comply with Article 7(3).

(4) A board may, in relation to its ordinary controlled schools taken as a whole, rely on the exception in Article 7(3)(b) only if it shows that there are no reasonable steps that it could take to prevent the incompatibility.

(5) A board or a Board of Governors may, in relation to a particular ordinary school, rely on the exception in Article 7(3)(b) only if it shows that there are no reasonable steps that either of them could take to prevent the incompatibility.

(6) The exception in Article 7(3)(b) does not permit a Board of Governors to fail to comply with the duty imposed by Article 16(5)(b).

(7) Boards and Boards of Governors of grant-aided schools shall have regard to guidance about Article 7 and this Article issued by the Department.

(8) That guidance shall, in particular, relate to steps which may, or may not, be regarded as reasonable for the purposes of paragraphs (4) and (5).” .

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