

SCHEDULES

SCHEDULE 1

Article 3

TRANSFER OF MANAGEMENT OF THE COLLEGE

Interpretation

1.—(1) In this Schedule “relevant department” means—

- (a) the Department;
- (b) the Department of Education;
- (c) the Department of Finance and Personnel.

(2) Subject to sub-paragraphs (3) and (4), in this Schedule “relevant employee” means a person who, immediately before the transfer date, is employed by a relevant department as a member of staff at the college.

(3) A person is not a relevant employee if his contract of employment with a relevant department terminates on the day immediately before the transfer date.

(4) A person shall be treated as a relevant employee if—

- (a) he has, prior to the transfer date, entered into a contract of employment with a relevant department which is to come into effect on or after that date; and
- (b) he would, if the contract had come into effect before that date, have been a relevant employee.

(5) For the purposes of this Schedule anything done before the transfer date by persons appointed by a relevant department in relation to the management of the college shall have effect as if done by that department.

Transfer of certain property, rights and liabilities

2.—(1) Subject to the following provisions of this Schedule, on the transfer date there shall be transferred to the governing body—

- (a) all land and other property which, immediately before that date, was property of a relevant department held by that department for or in connection with the purposes of the college;
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by a relevant department for or in connection with those purposes.

(2) Sub-paragraph (1) does not apply to—

- (a) any right or liability under a contract of employment (which is dealt with in paragraph 3);
- (b) any liability of a relevant department in tort where the cause of action accrued before the transfer date;
- (c) any liability of a relevant department under a contract of indemnity in respect of acts committed before the transfer date;

Status: This is the original version (as it was originally made).

- (d) any property, right or liability excluded from that sub-paragraph by an order under sub-paragraph (3).
- (3) The Department may, at any time before the transfer date, by order provide that any property, right or liability specified in the order shall be excluded from sub-paragraph (1).
- (4) Where an order under sub-paragraph (3) provides that any land is excluded from sub-paragraph (1), the order may—
 - (a) create for a relevant department interests in or rights over land transferred under this paragraph;
 - (b) create for the governing body interests in or rights over land excluded by the order,
 - (c) create rights or liabilities between a relevant department and the governing body.
- (5) Sub-paragraph (1) has effect in relation to property, rights and liabilities—
 - (a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer; and
 - (b) without any instrument or other formality being required.
- (6) A certificate issued by the Department and stating that any land or other property specified in the certificate, or any right or liability so specified, was or was not transferred under this paragraph to the governing body shall be evidence for all purposes of that fact.
- (7) A transfer or order under this paragraph does not give rise to any liability to stamp duty or stamp duty land tax.

Transfer of staff

- 3.—**(1) On the transfer date each relevant employee transfers to and becomes a member of the staff of the governing body.
- (2) The contract of employment of a relevant employee transferred under this paragraph—
 - (a) is not terminated by the transfer;
 - (b) has effect from the transfer date as if originally made between the employee and the governing body.
 - (3) Accordingly—
 - (a) all rights, powers, duties and liabilities of a relevant department under or in connection with the contract of employment are transferred to the governing body on the transfer date; and
 - (b) anything done before that date by or in relation to a relevant department in respect of that contract or the relevant employee is to be treated as from that date as having been done by or in relation to the governing body.
 - (4) But if a relevant employee informs a relevant department before the transfer date that he objects to the transfer of his contract of employment under this paragraph—
 - (a) sub-paragraphs (1) to (3) do not apply in relation to him; and
 - (b) the contract of employment is terminated immediately before the transfer day, but the relevant employee is not to be treated, for any purpose, as having been dismissed by a relevant department.
 - (5) Sub-paragraph (4) does not affect any right of a relevant employee to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

Transfers: continuity

4.—(1) A transfer does not affect the validity of anything done by or in relation to a relevant department before the transfer takes effect.

(2) Anything which—

(a) is done by a relevant department for the purpose of, or in connection with any property, rights or liabilities transferred from that department under paragraph 1; and

(b) is in effect immediately before the transfer date,

is to be treated as from that date as if done by the governing body.

(3) Anything (including legal proceedings) which is in the process of being done by or in relation to a relevant department immediately before the transfer date and which relates to any property, rights or liabilities transferred from that department under paragraph 1 may, as from that date, be continued by or in relation to the governing body.

(4) In any document which—

(a) relates to any property, rights or liabilities transferred from a relevant department under paragraph 1; and

(b) is in effect immediately before the transfer date,

any reference to that department is to be read as a reference to the governing body.

Power to amend trust deeds, etc.

5.—(1) The Department may by order make such modifications as it thinks fit in any trust deed or other instrument—

(a) relating to or regulating the college; or

(b) relating to any land or other property held by any person for the purposes of the college.

(2) Before making any modifications under sub-paragraph (1) of any trust deed or other instrument, the Department shall, so far as it appears to the Department practicable to do so, consult—

(a) the governing body;

(b) where any other person is empowered, by whatever means, to modify the trust deed or instrument, that person; and

(c) where the instrument to be modified is a trust deed and the trustees are different from the persons mentioned in head (a) or (b), the trustees.

Power to make further provision in relation to transfers

6.—(1) The Department may by order make such further provision as appears to the Department to be necessary or expedient in consequence of, or for the purpose of facilitating, or otherwise related to, any transfer under this Schedule.

(2) An order under this paragraph may—

(a) amend or repeal any statutory provision; or

(b) provide for any statutory provision to have effect for any period specified in the order with such modifications as may be so specified.

SCHEDULE 2

Article 4

THE GOVERNING BODY OF THE COLLEGE

Status and name

- 1.—(1) The governing body shall not—
- (a) be regarded as the servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown,
- and its property shall not be regarded as property of, or held on behalf of, the Crown.
- (2) Subject to the provisions of this Order, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to the governing body.

Membership

- 2.—(1) The instrument of government shall provide for the governing body to consist of not less than 12 nor more than 18 members, of whom—
- (a) not less than one-half shall be persons appearing to the Department to be, or to have been, engaged or employed in business, industry or any profession;
 - (b) one shall be the principal of the college;
 - (c) two shall be elected by staff employed at the college of whom—
 - (i) one shall be elected by teachers so employed from among such teachers; and
 - (ii) one shall be elected by other staff so employed from among such other staff;
 - (d) one shall be elected by students of the college from among such students;
 - (e) not more than two may be persons co-opted by the other members of the governing body.
- (2) The instrument of government shall provide—
- (a) for the members of the governing body to be appointed by the Department after consultation with such bodies or persons as appear to the Department to be appropriate;
 - (b) that any election to be held in pursuance of sub-paragraph (1)(c) or (d) shall be conducted in accordance with rules made by the governing body.

Chairman and other officers

- 3.—(1) The instrument of government shall provide for—
- (a) the appointment, tenure of office and removal from office of a chairman of the governing body;
 - (b) the eligibility of persons for appointment as chairman.
- (2) The instrument of government may provide for the appointment, tenure of office and removal from office of other officers of the governing body.

Eligibility and tenure of office

- 4.—(1) Subject to sub-paragraph (2), the instrument of government shall provide for—
- (a) the eligibility of persons for membership of the governing body;

- (b) the tenure of office, and removal from office, of members of the governing body.
- (2) If it appears to the Department that the affairs of the governing body have been or are being mismanaged—
 - (a) the Department may by order remove all or any of the members of the governing body (other than the principal of the college); and
 - (b) new members shall be appointed to the governing body in place of those so removed.
- (3) Where the Department exercises the power conferred by sub-paragraph (2) to remove members of the governing body, it shall give notice in writing of such removal to any members so removed and to the governing body.

Payments to members

- 5. The articles of government may provide, for the governing body to pay travelling and subsistence allowances to its members and the members of committees of the governing body.

Proceedings

- 6.—(1) Subject to any provision made by the articles of government, the governing body may regulate its own proceedings and those of any committee established by it.
- (2) The validity of any proceedings of a governing body, or of any committee of the body, shall not be affected by—
 - (a) a vacancy amongst the members; or
 - (b) any defect in the appointment of any member.
- (3) The articles of government may—
 - (a) make provision about the procedures of the governing body and of the college;
 - (b) make provision for the admission, suspension and expulsion of students;
 - (c) provide for the authentication of the application of the seal of the governing body;
 - (d) authorise the governing body to make rules for the government and conduct of the college including, in particular, provision about the conduct of students and staff.

Committees, etc.

- 7.—(1) The articles of government—
 - (a) shall provide for the governing body to establish an Audit Committee; and
 - (b) may provide for the governing body to establish other committees.
- (2) The articles of government shall regulate the constitution and functions of committees of the governing body.

Delegation of functions

- 8. The articles of government may provide for the delegation of functions of the governing body to—
 - (a) a committee of the governing body;
 - (b) the principal of the college; or
 - (c) such other person as may be specified by or determined in accordance with the articles.

Evidence of documents

9.—(1) In any legal proceedings a document purporting—

- (a) to be a document made or issued by the governing body; and
- (b) to be duly executed under the seal of the body, or to be signed by the chairman of the body or the principal of the college,

shall be received in evidence and shall be treated, without further proof, as being so made or issued unless the contrary is shown.

(2) In any legal proceedings an extract from the minutes of the proceedings of any meeting of the governing body signed by the chairman of the body or by the principal of the college shall be evidence of the matters stated therein.

Staff

10.—(1) The articles of government shall make provision for the arrangements concerning the appointment, appraisal, promotion, suspension and dismissal of the principal and other staff of the college.

(2) Subject to any provision so made, the governing body may appoint such staff as it thinks fit.

(3) The terms and conditions of the staff of the governing body (other than those to whom sub-paragraph (4) applies) shall be such as may be determined by the governing body after consultation with representatives of the staff concerned.

(4) The terms and conditions of staff to whom this sub-paragraph applies shall be such as may be determined by the governing body subject to the approval of the Department.

(5) Sub-paragraph (4) applies to—

- (a) the principal of the college; and
- (b) such other staff as the Department may direct.

SCHEDULE 3

Article 14

AMENDMENTS

The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

1. The following provisions shall cease to have effect—

- (a) in the Table in Article 24, in paragraph 1A, the words “other than an establishment referred to in Article 82(3)”; and
- (b) Article 82(3).

The Education and Libraries (Northern Ireland) Order 1986 (NI 3)

2. In Article 2(2)—

- (a) in the definition of “college of education”, for the words from “being” to the end substitute “being a college in respect of which grants are paid under Article 66(2), (2A) or (3);”.
- (b) in the definition of “the Education Orders” at the end add—
 “(h) the Colleges of Education (Northern Ireland) Order 2005;”.

The Race Relations (Northern Ireland) Order 1997 (NI 6)

3. In Article 18(1), in the Table, for paragraph 5 substitute—

“5. College of education	The managers”.
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The Freedom of Information Act 2000 (c. 36)

4. In paragraph 55(1)(b) of Schedule 1 omit the words “maintained in pursuance of arrangements under Article 66(1) or”.

The Special Educational Needs and Disability (Northern Ireland) Order 2005 (NI 6)

5. In Article 27(4) for sub-paragraphs (c) and (d) substitute—
“(c) in the case of a college of education, the managers;”.

SCHEDULE 4

REPEALS

Short Title	Extent of repeal
<i>The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)</i>	In Article 24, in paragraph 1A of the Table, the words “other than an establishment referred to in Article 82(3)”.
	Article 82(3).
The Freedom of Information Act 2000 (c. 36)	In Schedule 1, in paragraph 55(1)(b), the words “maintained in pursuance of arrangements under Article 66(1) or”.