

1973. No. 390

[C]

EDUCATION

Handicapped Pupils and Special Schools

REGULATIONS, DATED 28TH SEPTEMBER 1973, MADE BY THE MINISTRY OF EDUCATION WITH THE APPROVAL OF THE MINISTRY OF FINANCE UNDER THE EDUCATION AND LIBRARIES (NORTHERN IRELAND) ORDER 1972.

The Ministry of Education (hereinafter referred to as "the Ministry") on behalf of the Secretary of State and in exercise of the powers conferred on it by Articles 26, 105 and 125 of the Education and Libraries (Northern Ireland) Order 1972(a) and of every other power enabling it in that behalf and after consultation with the Ministry of Health and Social Services in so far as the categories of pupils requiring special educational treatment are defined makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Handicapped Pupils and Special Schools Regulations (Northern Ireland) 1973.

(2) These Regulations shall take effect on 1st October 1973.

Definitions

2. In these Regulations unless the context otherwise requires—

"approved" means approved by the Ministry;

"board" means an education and library board established under Article 3 of the Order;

"handicapped pupils" means pupils falling within one or more of the categories of pupils defined by Regulation 4 as requiring special educational treatment;

"inspector" means any person employed by the Ministry for the purpose of inspection;

"Order" means the Education and Libraries (Northern Ireland) Order 1972;

"ordinary school" means a grant-aided school which is not a special school;

"school authorities" means the board in the case of a special school managed by an education and library board and the governing body or maintained school committee in the case of any other special school.

3.—(1) These Regulations define the several categories of pupils requiring special educational treatment and prescribe the requirements to be complied with by a school as a condition of approval of the school as a special school.

(2) The Regulations set out in Schedule 1 are revoked.

Categories of handicapped pupils

4. The several categories of pupils requiring special educational treatment are hereby defined as follows:—

- (a) Blind pupils, that is to say, pupils who have no sight or whose sight is or is likely to become so defective that they require education by methods not involving the use of sight;
- (b) partially-sighted pupils, that is to say, pupils who by reason of defective vision cannot follow the normal regime of ordinary schools without detriment to their sight or to their educational development but can be educated by special methods involving the use of sight;
- (c) deaf pupils, that is to say, pupils with impaired hearing who require education by methods suitable for pupils with little or no naturally acquired speech or language;
- (d) partially hearing pupils, that is to say, pupils with impaired hearing whose development of speech and language, even if retarded, is following a normal pattern, and who require for their education special arrangements or facilities though not necessarily all the educational methods used for deaf pupils;
- (e) educationally sub-normal pupils, that is to say, pupils who, by reason of limited ability or other conditions resulting in educational retardation, require some specialised form of education wholly or partly in substitution for the education normally given in ordinary schools;
- (f) epileptic pupils, that is to say, pupils who by reason of epilepsy cannot be educated under the normal regime of ordinary schools without detriment to themselves or other pupils;
- (g) maladjusted pupils, that is to say, pupils who show evidence of emotional instability or psychological disturbance and require special educational treatment in order to effect their personal, social or educational re-adjustment;
- (h) physically handicapped pupils, that is to say, pupils not suffering solely from a defect of sight or hearing who by reason of disease or crippling defect cannot, without detriment to their health or educational development, be satisfactorily educated under the normal regime of ordinary schools;
- (i) pupils suffering from speech defect, that is to say, pupils who on account of defect or lack of speech not due to deafness require special educational treatment;
- (j) delicate pupils, that is to say, pupils not falling under any other category in this Regulation who by reason of impaired physical condition need a change of environment or cannot, without risk to their health or educational development, be educated under the normal regime of ordinary schools.

Arrangements for special educational treatment

5. Unless the Ministry otherwise approves or determines in the case of any particular handicapped pupil, every pupil who is blind or deaf, whether or not he falls within some other category of handicapped pupils, shall be educated in a special school.

6. A board may, with the approval of the Ministry, arrange for the special educational treatment of a handicapped pupil at a school other than a grant-aided school.

7. A board may arrange for the special educational treatment at an ordinary school of a handicapped pupil of a category other than those specified in Regulation 5 provided that the special educational treatment afforded by such school is appropriate to his disability and the pupil's presence in the school is not detrimental to the other pupils.

Approval of schools

8.—(1) In order to be approved a school shall comply with the requirements imposed on it by or under the Order and if it does not so comply approval may be withdrawn.

(2) The continued approval of a school shall be dependent upon the maintenance of a satisfactory level of efficiency and of such average enrolment of pupils as the Ministry may determine.

9. The accounts of a school shall be kept and audited in accordance with approved arrangements.

10. A copy of the approved scheme of management of a school shall be deposited with the Ministry.

PREMISES, ORGANISATION, STAFFING, ETC.

11. A school shall be organised for the purposes of providing special educational treatment suitable for handicapped pupils of such number, category, age and sex as the Ministry may approve.

12. A school shall not be used for political meetings, the transaction of any political business or for any purpose connected directly or indirectly with Parliamentary, Northern Ireland Assembly or Local Government elections except as polling booths on the requisition of the officer responsible in accordance with the statutes governing such elections.

13. The premises of a school shall be kept in a proper state of repair, cleanliness and hygiene and shall not be altered without the prior approval of the Ministry; adequate arrangements shall be made for the safety of the pupils and staff in case of fire.

14. The teaching and other staff of a school shall be such as the Ministry considers to be sufficient and suitable.

15. The education provided by the school shall be suited to the ages, abilities and aptitudes of the pupils in attendance thereat and shall have regard to their particular handicaps. The school shall be conducted in accordance with an approved time-table and suitable arrangements shall be made by the school authorities for the continuance of school work during the absence of any teacher.

16.—(1) No pupil shall be admitted to a school or retained in it unless it is suitable having regard to the pupil's age and sex and the nature of the handicap. In case of doubt as to the suitability of the school a pupil may be admitted for a trial period.

(2) The number of pupils on the register of a school shall not, without the approval of the Ministry, exceed the number for which the school is approved.

SIZE OF CLASSES

17. The number of pupils enrolled in any class shall not exceed the maximum herein prescribed for that class, that is to say—

- (a) for a class of deaf or partially deaf pupils or of pupils suffering from speech defect, ten pupils;
- (b) for a class of blind, partially-sighted or maladjusted pupils, fifteen pupils;
- (c) for a class of educationally sub-normal, epileptic or physically handicapped pupils, twenty pupils; and
- (d) for a class of delicate pupils, thirty pupils:

Provided that a class may exceed the prescribed maximum if the Ministry is satisfied that—

- (i) every effort is being made to comply with the requirement as to the prescribed maximum and that failure to do so is due to causes beyond the control of the school authorities; or
- (ii) compliance with the requirement as to the prescribed maximum would interfere unduly with the efficient conduct of the school, and the average number of pupils enrolled in all the classes of the school does not exceed that maximum.

ADMISSION, SCHOOL YEAR AND ATTENDANCES

18. A pupil shall not be refused admission to, or excluded from, a school on other than reasonable grounds.

19.—(1) The school year shall be the year beginning on 1st August and ending on 31st July.

(2) A school shall be in operation for three terms in any school year; the first term shall end in December, the second in March or April and the third in June or July.

(3) Subject to the provisions of paragraph (4) and paragraph (5), a school shall be in operation during the school year for at least 200 days (exclusive of Sundays) of which not more than five days may be counted in any one week from Sunday to Saturday inclusive.

(4) Subject to the provisions of Regulation 20 the dates of school holidays shall be determined by the school authorities.

(5) A school may, at the discretion of the school authorities, be closed for a number of optional holidays, not exceeding ten days in any school year, and such optional holidays may be counted as days when the school is in operation for the purposes of paragraph (3).

(6) In exceptional circumstances the Ministry may sanction a reduction in the number of days prescribed in paragraph (3).

20.—(1) The dates of school holidays, other than optional holidays, shall, in the case of schools not under the management of a board, be subject to the approval of the board for the area in which the school is situated.

(2) Not later than 31st March in any year the Principal of every such school shall furnish to the board, in such form as the board may prescribe, a statement of the dates on which it is proposed that the school will close in the ensuing school year including (as far as is known at that time) the dates of optional holidays.

(3)(a) The board's approval to proposals for holiday closings as submitted in accordance with paragraph (2) shall not be unreasonably withheld and the board shall take into account any representations made by or on behalf of the managers of the school.

(b) In the event of the board being unwilling to approve the proposals for closings submitted in accordance with paragraph (2) (or any amending proposals submitted after consultation between the board and the managers) the board shall determine the dates of such closings and shall notify the managers of its decision.

(c) If the managers of the school are unwilling to accept the decision of the board about the dates of closing they may, within fourteen days of receipt of the notification referred to in the preceding sub-paragraph, refer the matter to the Ministry for final determination.

21.—(1) On each day on which a school is in operation in accordance with the requirements of Regulation 18 the school day shall, unless the Ministry otherwise approves, comprise—

- (a) at least three hours of secular instruction in the case of a pupil enrolled in a class composed mainly of pupils who, at the commencement of the school year, had not attained the age of eight years;
- (b) at least four hours of secular instruction in the case of a pupil enrolled in any other class:

Provided that if the school authorities are duly advised by a qualified medical practitioner that it would be detrimental to a pupil to remain under instruction for three or four hours, as the case may be, they may reduce the period of attendance for such pupil.

(2) In the case of a pupil to whom the provisions of sub-paragraph (b) of paragraph (1) of this Regulation applies, the school day shall consist of two sessions separated by a period of not less than half-an-hour.

(3) Attendance of a pupil under instruction as aforesaid may include in addition to any time occupied by a pupil in accordance with arrangements set out in the approved time-table of the school—

- (a) any time occupied by visits paid during school hours under approved arrangements to places of educational value or interest;
- (b) any time occupied by a pupil in undergoing medical or other appropriate treatment or examination;
- (c) any time occupied by a pupil in attending an examination; and
- (d) any time occupied by a pupil in any other approved manner.

22. The time-table arrangements of a school shall be such—

- (1) that, so far as is practicable, the school day shall commence with collective worship;
- (2) that, so far as is practicable, there shall be set apart for the purpose of religious instruction a period of at least one half-hour each school day or its equivalent within each week;
- (3) that, so far as is practicable, alternative instruction shall be available for any pupil who, in accordance with the wishes of his parent, is withdrawn from attendance at such worship or instruction.

TEACHERS

Qualifications of teachers

23. A full-time teacher is—

(a) a principal; or

(b) a teacher who is employed in a full-time capacity and who is engaged in school duties for at least 25 hours per week of which not less than 20 hours are devoted to instruction in subjects of the approved time-table: Provided that, with the Ministry's approval, the requirement of 20 hours instruction may be waived in the case of a teacher who is required to give instruction to handicapped pupils otherwise than at school or in exceptional circumstances.

24.—(1) To be eligible for recognition by the Ministry a teacher must hold qualifications which would entitle them to recognition as qualified teachers in primary or secondary schools and, in the case of teachers of blind or deaf or partially-hearing pupils, such additional qualifications as the Ministry may approve.

(2) Temporary and part-time teachers shall possess such qualifications as the Ministry may approve.

(3) Notwithstanding the foregoing provisions of this Regulation—

(a) any teacher in a special school whose recognition was confirmed before 1st August 1957 shall be recognised as a qualified teacher for the purposes of these Regulations;

(b) in exceptional circumstances, a teacher who does not possess the additional qualifications specified in paragraph (1) of this Regulation may, subject to such conditions as the Ministry may determine, be recognised as a qualified teacher.

25. A teacher shall not be employed before he attains the age of 20 years or after the 31st July next following the date on which he attains the age of 65 years, except for limited periods in cases where there are special circumstances and the Ministry so approves.

26. Every full-time teacher (including a substitute teacher) shall satisfy the Ministry of his health and physical capacity for teaching.

Probation and recognition of teachers

27. If a teacher's recognition is withdrawn the Ministry may in special circumstances provisionally restore his recognition for such period and subject to such conditions as it may determine. During such period the teacher shall be on probation and at the end of such period the Ministry shall either confirm the teacher's recognition or withdraw it.

28.—(1)(a) Subject to the provisions of paragraph (2) a teacher who is recognised as a qualified teacher shall be on probation for an initial period of three terms or six terms, or such period or periods as the Ministry considers equivalent to three terms or six terms respectively. While a teacher is on probation his recognition shall be provisional.

(b) The initial probation period of three terms referred to in sub-paragraph (a) shall apply to teachers who have successfully completed an approved course of training and the period of six terms shall apply to teachers who have not completed such a course.

(2) If a teacher has previous teaching experience or in special circumstances the Ministry may waive probation in whole or in part.

(3) Unless the Ministry in special circumstances considers that it is necessary to defer a decision, it shall at the end of the period or periods of probation referred to in paragraph (1) and of any period by which such period or periods are extended under the provisions of this paragraph confirm the teacher's recognition or extend his probation for a further period, or withdraw his recognition.

(4) If a decision is deferred under paragraph (3) but at the end of the period of deferment the Ministry confirms the teacher's recognition, the Ministry shall determine from what date recognition would have been confirmed if the decision had not been deferred and the teacher's recognition shall be deemed to have been confirmed from that date.

29. The Ministry may, before confirming recognition, or at any time as a condition of continued recognition, require a teacher to attend further courses of study or to comply with such other conditions as it may determine.

30. The Ministry may refuse, or withdraw, the recognition of a teacher on the grounds of misconduct or inefficiency.

31. If a teacher's engagement is terminated, whether by dismissal or resignation, on account of misconduct or conviction of a criminal offence the school authorities shall report the facts to the Ministry.

Miscellaneous

32. The Ministry may pay in respect of a voluntary school which is not a maintained school, grant equal to sixty-five per cent. of the approved expenditure incurred by the school authorities in the employment of class assistants.

33.—(1) The boarding fee to be charged by the school authorities shall be subject to the approval of the Ministry.

(2) A board shall pay to school authorities the approved boarding fee in respect of pupils for whose special educational treatment at the school as boarding pupils the board has accepted responsibility.

34. The certificate required to be issued by a board in accordance with the provisions of paragraph 2(3) of Schedule 8 to the Order shall be in the form prescribed in Schedule 2 of these Regulations.

35. In the event of the discontinuance of a school the Ministry shall have power to withhold payment of any grants due in respect of the said school under this or any other Regulations of the Ministry, or of any portion of such grants, except of such amount as may be necessary to aid the school in discharging just and lawful debts incurred by way of approved educational expenditure before its discontinuance as aforesaid.

36. If any school authorities fail to satisfy the requirements of these or any other Regulations of the Ministry, the Ministry may either withdraw approval from the school after such notice, if any, as the Ministry may determine, or withhold or make deduction from the grant payable under these or any other Regulations of the Ministry.

Sealed with the Official Seal of the Ministry of Education for Northern Ireland this 28th day of September 1973.

(L.S.)

P. K. McHugh,
Assistant Secretary.

The Ministry of Finance on behalf of the Secretary of State hereby approves of the foregoing Regulations.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 28th day of September 1973.

(L.S.)

W. Ivan Woods,
Deputy Secretary.

SCHEDULE 1

Regulation 3

Statutory Rules and Orders revoked

| <i>Year</i> | <i>No.</i> | <i>Title</i> |
|-------------|------------|---|
| 1957 | 153 | Handicapped Pupils and Special Schools Regulations (Northern Ireland) 1957 |
| 1959 | 83 | Handicapped Pupils and Special Schools (Amending) Regulations (Northern Ireland) 1959 |
| 1962 | 232 | Handicapped Pupils and Special Schools (Amending) Regulations (Northern Ireland) 1962 |
| 1963 | 49 | Handicapped Pupils and Special Schools (Amending) Regulations (Northern Ireland) 1963 |
| 1965 | 136 | Handicapped Pupils and Special Schools (Amending) Regulations (Northern Ireland) 1965 |
| 1967 | 190 | Handicapped Pupils and Special Schools (Amending) Regulations (Northern Ireland) 1967 |

SCHEDULE 2

FORM SE 1

Special Educational Treatment—Certificate

(Certificate issued for the purposes of paragraph 2(3) of Schedule 8 of the Education and Libraries (Northern Ireland) Order 1972)

CHILD'S NAME IN FULL

DATE OF BIRTH

NAME AND ADDRESS OF *PARENT

.....
.....

I being a duly authorised officer of the Education and Library Board HEREBY CERTIFY on behalf of the board that an examination of the above-named child carried out under paragraph 1 of the Order indicates that the child requires special educational treatment. In accordance with the definition contained in the Handicapped Pupils and Special Schools Regulations (Northern Ireland) 1973 the nature of his/her disability is

Signature

..... Education and Library Board

Address

.....

Date

* In this certificate, the expression "parent" in relation to a child includes a guardian and every person who has actual custody of the child.

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations define the several categories of pupils requiring special educational treatment and specify the conditions for the approval of special schools and the grants payable thereto. They also deal generally with the arrangements to be made in the provision of special educational treatment for handicapped pupils.